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Senate

The Senate met at 10 a.m. and was called to order by the Honorable RAPHAEL G. WARNOCK, a Senator from the State of Georgia.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, who has promised to hear our prayers, incline Your ear to us, providing us with those things we have faithfully requested according to Your will.

Lord, we have asked for Your presence in Ukraine. We have desired for You to continue to be the refuge and strength for those experiencing the horrors of war, providing for their needs with Your mighty power.

We have requested that You inspire and empower our lawmakers to walk by faith and not by sight.

Lord, You are a faithful God, and we place our trust in You. Save us from the traps set by the forces of evil.

We pray in Your mighty Name. Amen.

PLEDGE OF ALLEGIANCE

The Presiding Officer led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. LEAHY).

The senior assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 26, 2022.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RAPHAEL G. WARNOCK, a Senator from the State of Georgia, to perform the duties of the Chair.

PATRICK J. LEAHY,
President pro tempore.

Mr. WARNOCK thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session and resume consideration of the following nomination, which the clerk will report.

The senior assistant legislative clerk read the nomination of Lael Brainard, of the District of Columbia, to be Vice Chairman of the Board of Governors of the Federal Reserve System for a term of four years.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

BUSINESS BEFORE THE SENATE

Mr. SCHUMER. Mr. President, as we begin this 5-week work period, Senate Democrats' focus will remain the same as it has been since last year: fighting inflation and lowering costs for American families.

At times, we will pursue this goal through legislation, as has been the case with our competition bill, with legislation to reform shipping practices that we passed recently, or finding ways to lower prescription drug costs.

And to that end, today, the Agriculture Committee is also holding a hearing on legislation to improve transparency in meat prices.

In addition to legislation, Senate Democrats will also help lower costs by confirming the right people to serve in the Federal Government. On that note, we will aim today to finish the confirmation of Lael Brainard to serve as Vice Chair of the Federal Reserve Board of Governors.

Soon, the Senate will also work to confirm another very important nominee: Mr. Alvaro Bedoya to serve as Commissioner of the FTC, the Federal Trade Commission. Of all the Agencies in the Federal Government, the FTC is among the best equipped for protecting Americans from price gougers, manipulators, and those trying to rip off American consumers—or at least the FTC would be, if it had full membership. But, sadly, the FTC has been stuck at a 2–2 deadlock for well over a year, rendering it incapable of executing the full breadth of its agenda.

We have had two Democrats, two Republicans. The Republican nominees have resisted going after Big Oil and so many of the other excesses of corporate America. And who pays the price? In a very literal sense, it is American consumers as they see prices rise on everything from groceries to the number that pops up every time they fill up their tank.

But the story is grossly different in corporate America, and an FTC with full membership could shine a light as to why. While Americans across the board are making sacrifices to support themselves and their families, corporate America is raking in record profits.

As one article from Yahoo Finance summarized earlier this year, corporate America's 2021 profits were higher than ever.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Corporate America's profits were higher than ever.

Perhaps no sector has evoked more frustration and anger from the American people as the largest oil and gas companies and the prices they are charging.

Last year, the top 25 oil and gas companies reported $205 billion in profits. Where has that money gone? To help American consumers? No way. To ease our energy troubles? Not at all.

According to one news source yesterday, 28 of the largest oil and gas companies gave out $394 million in CEO compensation. And in the fourth quarter last year, stock buybacks among these companies rose by more than 2,000 percent—2,000 percent.

All this extra money they are making they put in the pockets of the CEOs and the wealthy shareholders who dominate in the oil company ownership. Just think about that. Americans are paying more and more at the pump and struggling to afford the basics, and oil companies, which are seeing their highest profits in years, prefer to reward executives and shareholders through corporate buybacks instead of American families.

Once we have an FTC with full membership, they will finally have the will, the means, and the power to look under the hood of America's energy sector and shine a much needed light on why Big Oil is pumping out record profits, even as consumers struggle.

So completing the membership of the FTC will be a priority, and we will work to finish the confirmation process of Mr. Bedoya as soon as we can.

UKRAINE

Mr. President, on Ukraine, later this week, President Biden is expected to send Congress another request for emergency funding to support the people of Ukraine in their fight against Russian aggression.

When the President makes his request, the Senate should be ready to work quickly to approve this funding. Every penny of American aid has been money well spent.

This fight, in a real sense, is about tyranny versus democracy itself. It is a Manichaean struggle.

It has been 2 months since Vladimir Putin began his immoral and savage war against the Ukrainian people. You see the pictures; it breaks your heart. It breaks your heart; savagery—savagery—of Mr. Putin killing women and children, innocent people.

So far, though, things have gone disastrously for Russian troops as hopes for a quick invasion have been all but dashed. The Ukrainian people, forced into a war not of their choosing and having suffered losses of inhumane proportions, have given Putin a much tougher fight than he ever bargained for, than he ever imagined. Outnumbered and out-equipped, the bravery and valiance of the Ukrainian people remain unbroken. Putin, meanwhile, is increasingly the most isolated leader in the world. Although, parenthetically, shame on the world leaders who are playing footsie with him, including China.

But the Ukrainian people still need our help. Sadly, this fight seems far from over, and losses from the Ukrainian people have been severe.

The United States has a moral obligation to help the Ukrainian people with the tools they need for as long as they need them. Again, this is about tyranny versus democracy itself.

In which direction will the world turn in this, the 21st century?

Once the President makes his request to Congress, approving additional aid for Ukraine will be a must. I expect both sides to work with swift, bipartisan cooperation to get it done.

I also expect the Senate to move quickly on the nomination of President Biden's choice for our Ambassador to Ukraine, Bridget Brink. Ms. Brink's nomination is terrific news that comes at a critical moment. She is deeply experienced. She has already won bipartisan support in this Chamber and is very much needed as the United States seeks to strengthen our diplomatic ties to the war-torn nation. Ms. Brink's nomination will be a top priority of the Senate once she comes before the Chamber.

CORONAVIRUS

Mr. President, on COVID relief: finally, there is another issue in which Republicans must work with Democrats—passing another round of COVID relief.

COVID funding is not a matter of ''nice to have if we can afford it.'' COVID funding is a must-have. It is something our Nation cannot possibly afford to go without.

Yesterday, the White House made clear that other countries like Japan, the Philippines, and Vietnam are already in front of us when it comes to purchasing new vaccines and treatments. American companies, with their ingenuity, come up with these vaccines and treatment; but because we are unwilling—our Republican colleagues so far have blocked financing this—other countries are going to buy from us.

We don't want to be in a position in the fall where we desperately need these medicines but our companies have signed contracts with other countries—other countries. That would be a huge mistake.

Given our Federal budget, it is a small amount to ask that we provide money for these therapeutics so that we can have them for our country, for our folks, as much as the rest of the world may need them, so that we have vaccines—the best vaccines—developed and ready to go and so we have enough testing and treatment.

But other countries are beating America to the punch because Republicans have blocked the Senate from approving new funding. The answer to avoiding another shutdown of our communities is very simple: Senate Republicans should work with us to quickly pass another round of COVID funding. It is not more complicated than that.

Let me say it again. If we want to keep life as close to normal down the line, if we want to keep schools and churches and businesses open if, God forbid, another aggressive variant arises, Republicans should work with us to approve more money for vaccines, testing, and lifesaving therapeutics.

The longer that Senate Republicans hold out on working with us to approve new funding, the higher the cost will be for our country down the line. And when we don't get back to normal, we can't stay at normal because of a new variant, people will know what happened.

God forbid that happens. We don't want it to happen. We want them to work with us; but, unfortunately, so far, we are not seeing that cooperation. From some we have, I must be clear. I had good discussions with several of our Republicans, but then it was blocked by the Republican leadership.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

BORDER SECURITY

Mr. MCCONNELL. Mr. President, the Biden administration's bad decisions have brought many crises upon our country. One of the worst is the collapse of law and order on our southern border.

Last month, Customs and Border Protection reported over 221,000 apprehensions. That is up 33 percent just since February. It is the highest monthly total in 22 years. We have already hit more than 1 million encounters in just the first half of this fiscal year. But, alas, this could still be just the beginning. The Department of Homeland Security is bracing for an even bigger surge in the weeks and months to come. Authorities are steeling for the possibility that we could see 18,000 new people showing up every single day.

In 2020, President-elect Biden said that ''end[ing] up with two million people on our border'' would be ''the last thing we need,'' but his own policies went on to produce exactly that outcome.

In 2021, on President Biden's watch, 2 million people from at least—listen to this—160 different countries were stopped along our southern border, and now immigration officials are anticipating totals that could more than triple—triple—last year's record.

Against this backdrop, with illegal immigrants and deadly fentanyl pouring into our country, any administration living in reality would be working overtime to actually secure the border. Instead, even now, President Biden is trying to throw away what little security still exists.

For 2 years, since the start of the pandemic, a legal authority called title 42 has empowered the government to simply turn around a large share of the people they catch and send them right back where they came from. Every

month, CBP uses this tool to keep tens of thousands of illegal immigrants out of the catch-and-release pipeline and send them back to their home countries, but now, unbelievably, President Biden has announced he is going to cancel these legal authorities. He wants to rip off the one remaining bandaid that has preserved at least some shred of law and order.

The Biden administration is claiming the pandemic is over and finished on our southern border. Now, they don't believe the pandemic is over, however, for American citizens—oh, no. Democrats actually want Congress to approve more funding specifically because COVID is not finished. The Biden administration's official position is that the pandemic is over for illegal immigrants but not for the American people.

Every day brings more confusing spin from President Biden and his staff. Their latest claim is that Congress needs to fix their problem for them—that if these title 42 authorities end after President Biden has announced he will end them, it will somehow be Congress's fault. That is absurd. The administration has the discretion. The legislative branch has already given them the tool. It is the same tool they have been using this whole time. They just need to have the courage to tell the radical left to take a hike and keep sending these folks back to their home countries. Apparently, that is asking too much.

The Biden administration is stumbling through this core governing responsibility with no vision, no plan, and backward priorities. Democrats would rather appease their radical base with functional open borders than conduct the bare minimum—bare minimum—in enforcement.

The administration's decision is so obviously crazy that even a number of our Senate Democratic colleagues who have been marching in lockstep with the President for more than a year are now scrambling to make it look like they are breaking ranks.

Well, I welcome our colleagues who are finally making angry noises about this border crisis. The problem is that their lockstep, Democratic votes for over a year have helped, actually, to produce it. For over a year, Senate Democrats have rubberstamped every single aspect of the Biden administration's failed border policy. Not a single Senate Democrat opposed the confirmations of the heads of DHS and HHS, who have presided over this crisis. Not a single Senate Democrat voted for commonsense Republican amendments to do things like preserve the ''Remain in Mexico'' policy and defund sanctuary cities, and the cost of their bad decisions gets worse every day.

Last week, a heroic American servicemember paid the ultimate price. Specialist Bishop E. Evans of the Texas National Guard had been assigned to help contend with the flow of immigrants across the Rio Grande. He lost his own life in trying to save people who had gotten into deadly trouble. And the White House's response? Their spokeswoman was asked yesterday about this tragic loss. She brushed it off. She said he was there on behalf of Texas, not the Federal Government. That unbelievably tone-deaf response perfectly captures the administration's failure to take responsibility.

Democrats have built this border crisis by letting the radical left run the show for more than a year. If my friends across the aisle really have experienced a conversion of heart and now believe in border security, they will have to do a lot more than issue indignant press releases and call it a day.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DIETARY SUPPLEMENTS

Mr. DURBIN. Mr. President, if I were to ask you ''How did you start your day?'' I would imagine you would have your own answer.

Most people would say: Oh, I made a cup of coffee. I took the dog out for a walk. I went for a run.

Another answer might come to mind: Oh, I took my vitamin tablet, my dietary supplement.

In fact, 77 percent of people in America take a dietary supplement, including me. I take a multivitamin tablet. I don't know if it does me any good. I figure it won't do me any harm. I believe in it. I believe Americans ought to be able to make that choice.

I also believe that Americans who take vitamins, minerals, and herbs for their health and well-being have a right to know what is in them—pretty basic.

Many people assume if that product is sold in the United States of America, somebody has inspected it, and it must be safe. Unfortunately, that is not always true.

The Food and Drug Administration has the authority to regulate dietary supplements and take dangerous products off the market, but it lacks information that it needs to use this authority effectively.

The Food and Drug Administration can't even tell us how many dietary supplements are sold in America. They give us a range: somewhere between 50,000 different dietary supplements and 80,000—50,000 and 80,000—a gap of 30,000 products? What is going on here? They don't even know how many products are being sold, let alone what they are or what is in them.

Let's go back to 1994. That was the year Congress passed a law and gave the FDA the authority to regulate supplements. Now, we all know that the Food and Drug Administration has the most important responsibility when it comes to the drugs that we take to make sure they are two things: safe and effective—safe and effective.

But what about dietary supplements? Well, we passed something called DSHEA, the Dietary Supplement Health and Education Act. The law made some progress, but there was a problem with it. Manufacturers of dietary supplements—get this now—manufacturers of those vitamins and minerals that are for sale in all those shops and all those drugstores are not required to tell the Food and Drug Administration what products they are selling in the United States, under what names. They are not required to disclose to the FDA what is in those products or where they are manufactured. And believe me, a lot of them are manufactured outside the United States. So when it comes to dietary supplements, the Food and Drug Administration and American consumers are pretty much flying blind.

Making matters worse, since 1994, this dietary supplement industry has grown dramatically. Listen to these figures. In 1994, there were 4,000 dietary supplements sold in the United States. Today, as I said earlier, the number is as high as 80,000. So in 27, 30 years, we have seen the number of dietary supplements for sale go from 4,000 to 80,000.

Now, in 1994, dietary supplements were a $4 billion industry—today, over $50 billion in annual revenue.

Let me give you an example of one ingredient sold in dietary supplements today in the United States. It is called tianeptine. It can produce opioid-like effects. It is a prescription anti-depressant in some countries, but it is not approved for any use in the United States of America. Yet it is inexpensive and easy to produce. Some have nicknamed it ''gas station heroin'' because you can buy it easily at gas stations across America. You can buy it online—one click, delivered to your door.

It is marketed as a safe supplement that can improve users' moods and enhance concentration. How many ads do you see on television—maybe I am paying closer attention to them these days—that say: Take this supplement, and your memory is better. You can concentrate more.

You are smiling, Mr. President, because we have all seen them. They are on television all the time.

It is marketed also as a way to fight substance use disorders, this tianeptine. So last year, Consumer Reports—and I respect this magazine very much—published the results of an investigation it conducted into this supplement. It told the story of a Michigan woman who had used heroin for 10 years and survived countless overdoses and arrests. After her sister overdosed and died, she decided it was time to get clean. She was frightened. She was desperate enough to try anything. She

heard about tianeptine—maybe that could help her—so she tried it. She became hooked and dangerously ill, ending up in the hospital with a dangerous infection called sepsis.

One doctor said to her: ''I don't know if I can save your limbs, but I'll try.'' Another doctor told her she came within a day or two of dying.

She was lucky. She survived. She now speaks publicly about the dangers of the product that nearly killed her. In her words, ''This is heroin times 1,000, and it's very devastating. It's life-destroying. I don't really know how to put into words how horrible this substance is.''

In the midst of a deadly opioid epidemic and a COVID pandemic, some unscrupulous characters are hustling to make a buck off of people's pain by selling them an unregulated product that might make them sick or even kill them. And the Food and Drug Administration lacks the basic knowledge, the basic information it needs to go after the people who are peddling these dangerous, life-threatening products.

When asked about the situation, a Food and Drug Administration spokesman said the Agency has ''no systematic way of knowing what dietary supplement products are on the market.''

Think of that. The No. 1 Agency in the Federal Government, which you assume is taking a look at these products that you are buying at the vitamins and minerals store, has no way of knowing what is even for sale. As a result, the FDA, she said, is ''left trying to play catch-up'' after the bad results occur.

This week, Senator BRAUN of Indiana and I are introducing a bipartisan bill to protect Americans by requiring supplement manufacturers to register their products with the Food and Drug Administration. Our bill would require dietary supplement manufacturers to provide the FDA—listen to the information we are asking—the names of their products, the ingredients they contain, an electronic copy of the label, a list of any health claims that they have made, and more. All of this information would be available to consumers—so Americans have the right to know.

If there is a problem with a supplement, the FDA could quickly check the database to see what other products might contain the same ingredients and warn innocent consumers.

Dietary supplement makers who refuse to register with the FDA would see their products misbranded, and FDA should be given the appropriate authority to take action against them.

Now, I have been down this road before. I wanted to make sure that the dietary supplement manufacturers, when we had a report of an adverse event—somebody took their pill, thinking it was a harmless vitamin or mineral that might help them; it turned out to be dangerous; they got really sick or died—they had to report it.

I worked on the floor for years to get that passed into law. My nemesis, my challenger on the whole issue, was the late Senator from Utah, Orrin Hatch. Eventually, we worked out an agreement. Adverse event reporting was required.

Now, I might argue that it never worked quite as we expected it to, but at least it was an effort to alert people that sometimes what looks like an innocent vitamin or mineral can be dangerous. And the notion that the government has already checked it out is just plain wrong, as I have said here. But that was then.

I will tell you what happened. I went into vitamin stores in the State of Illinois and saw my picture on every cash register. I was enemy No. 1 because I asked that dangerous supplements be reported to the government if somebody got sick when they took them. But having said that, I want to make something very clear about the difference the legislation Senator BRAUN and I have introduced will face. I have been through this, as I said. I proposed a change about 10 years ago, and the dietary supplement industry hated me. They fought me tooth and nail. They hated my idea like the devil hates holy water.

In the year since Senator BRAUN and I started talking to them about this new bill, there has been a significant change, and I want to salute the industry for this change. A strong majority of the dietary supplement industry now supports responsible reporting requirements and stronger protections. Hats off to them.

The industry's largest trade association, the Council for Responsible Nutrition, has endorsed our bill. Other trade associations support enhanced reporting requirements, generally. We hope these groups will join us in the effort.

Responsible dietary supplement manufacturers should welcome this because the people who are abusing the market and endangering consumers are giving them a bad name. We are also glad for the support of Pew Charitable Trusts, which has worked diligently for years to protect consumers.

Our bill will give the FDA what they must have: the information to protect Americans from dangerous products being sold as health supplements. Our bill will give them the information and the power.

We urge our colleagues to join us in passing it as soon as possible. It is a commonsense, bipartisan compromise that will protect consumers' health and save lives.

The bottom line is, I am willing to fight to protect every Americans' right to buy safe dietary supplements. It may help them; it may not. That is not my judgment. Each individual consumer should make that choice. As long as that dietary supplement is not dangerous to you or to Americans, as long as we know that it is for sale, who made it, what is in it, I think that basic information is what the government should gather.

The vast majority of these supplements will not harm people, and the dietary supplement manufacturers know that, and that is why they are supporting our effort. I hope that more of my colleagues will join this bipartisan undertaking.

ARMY HUMVEE SAFETY AND TRAINING

Mr. President, I watched a troubling program on ''60 Minutes'' back in February. It detailed military tactical vehicle accidents. The report highlighted a terrible problem that has resulted in rollovers and other serious accidents involving the Army's most ubiquitous vehicle, the humvee.

Some of the safety upgrades, such as armor kits and other upgrades, that are designed to protect our warfighters in humvees during combat from IEDs or other threats can, in fact, make the humvees less stable and more prone to rollovers. Here is what it boiled down to.

When we went into Iraq with our humvees, we ran into these IEDs, these explosive devices that were set on the side of the road. They were triggered when humvees came by. They blew up these humvees and killed the occupants—military personnel from the United States—and they also maimed many of them as well.

The first soldier I visited, after our invasion of Iraq, out at Walter Reed was a sergeant from the Ohio National Guard who had lost half of one leg as a result of one of these IED explosions while he drove a humvee. So we decided to do something about it.

It was a dramatic emergency undertaking to put armored plating on the sides of these humvees so as they went down the road when these explosive devices went off, it would protect the people sitting inside. I know that it was an effort to do this as quickly as possible because the Rock Iron Arsenal in the State of Illinois jumped to the challenge and really responded in a matter of weeks, putting armored plating on the humvees.

Now, what happened, of course, is when we put that weighted plating on the sides to protect the occupants, it changed the camber and the balance of these vehicles, and many of them started being involved in rollover accidents. So by solving one problem, we introduced instability into the vehicle that haunted us and created more problems and even deaths.

In fact, just last year, the GAO reported that more than 3,750 noncombat accidents as a result of tactical vehicle accidents in the Army and Marine Corps occurred between fiscal years 2010 and 2019. At least 123 servicemembers died as a result of such accidents during the same timeframe.

Since then, the Army has pursued a number of improvements, including training for safety officers and inspections as part of their tactical vehicle driver's training. That has helped the situation.

The Army is also working to incorporate a variety of safe upgrades to

both brandnew and recently produced humvees, including anti-lock brake and electronic stability control safe kits to help prevent rollovers and accidents.

In fact, since 2017, all new Army humvees already have these safety kits installed. This includes humvees procured as part of our partnership at Rock Island Arsenal, where the safety kits are actually part of the integrated chassis system delivered to the arsenal.

As the Army continues its joint light tactical vehicle procurement strategy, the humvee will continue to be the workhorse of the future—the Army tactical wheeled vehicle fleet is led by these units with over 50,000 in service—for decades to come. As such, we owe it to the fighting forces to give them newer, safer humvees. And we must ensure that recently produced humvees currently in the fleet, those used across combat and training and other operational capabilities, are updated with safety kits.

The Army is also reviewing additional safety upgrades—such as airbags and restraint systems—that can help save lives as well.

All of these critical investments must be made in parallel. The ''60 Minutes'' piece has made clear the risks and costs. This is a clear call to action for all of us in Congress. The FY22 omnibus included $183 million for more safety kits on existing humvees. I look forward to continuing to work with the Army on further efforts to make the humvee safer and to keep our promise to protect the lives of our men and women in uniform.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PADILLA). The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. THUNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEMBERING ORRIN G. HATCH

Mr. THUNE. Mr. President, on Saturday, we lost a remarkable former colleague: Senator Orrin Hatch.

Orrin rose from poverty to become one of the longest serving Senators in U.S. history and the longest serving Republican Senator ever. During his more than 40-year Senate career, he built a record of accomplishment that included landmark legislation like the Americans with Disabilities Act; the Tax Cuts and Jobs Act; and the Religious Freedom Restoration Act, which he authored with his close friend from across the aisle, Senator Ted Kennedy. At the time of Orrin's retirement, no Senator alive had had as many pieces of legislation signed into law.

I was privileged to serve under Orrin's leadership at the Senate Finance Committee, one of three influential Senate committees that he chaired during his tenure in the Senate. In addition to being an outstanding legislator and a principled conservative, Orrin Hatch was also a cherished and good-humored colleague and a deeply kind human being. It is no surprise that his friendships spanned both sides of the aisle or that both the Democrat and Republican leaders paid tribute to him yesterday.

Mr. President, I know I speak for more than myself when I say that I have missed his presence in the Senate. His death is a loss for our country and especially for his beloved State of Utah, which he served so faithfully and so well during his long career.

My thoughts and prayers this week are with Orrin's wife of more than 64 years, Elaine, with Orrin's six children, and with his dozens of grandchildren and great-grandchildren.

BIDEN ADMINISTRATION

Mr. President, the first year of Democratic governance in Washington has produced surging inflation, a disastrous withdrawal from Afghanistan, and a massive border crisis. And, unfortunately, so far 2022 isn't looking much better. Our inflation crisis keeps getting worse, energy prices are soaring, and the Biden border crisis is reaching new heights.

When President Biden took office, inflation was 1.4 percent, well within the Federal Reserve's target inflation rate of 2 percent; and it might have remained there had Democrats not decided to pass a $1.9 trillion partisan spending spree under the guise of COVID relief—mere weeks, I might add, after Congress had approved a fifth bipartisan COVID relief bill that met essentially all current pressing COVID needs.

The Democrats' decision to flood the economy with unnecessary government money set off an inflation crisis that shows little sign of stopping. March saw inflation hit 8.5 percent, a 40-year high. Everywhere Americans look, they are paying more: more for groceries, more for gas, more for utilities, more for furniture, more for used cars and trucks—and the list goes on.

While wages increased in 2021, inflation outstripped wage growth, which means that instead of a pay increase, many Americans saw a de facto pay cut. Needless to say, inflation is having the biggest impact on those who can least afford it.

The President likes to tout job creation and economic growth—although most of what he takes credit for is the natural consequence of economic recovery after the pandemic—but his claims mean little to families who are wondering how they will be able to pay their soaring grocery bills or whether they can afford the gas that they need for the rest of the month.

And speaking of affording gas, thanks to Democrats, we are also rapidly approaching a full-blown energy crisis. Gas prices increased on average to an alltime high in March, according to AAA, and that is on top of the soaring inflationary costs of electricity and home gas services, among other energy commodities. As of yesterday, gas was $4.12 a gallon, up from $2.39 a gallon when President Biden took office. The administration, of course, has attempted to blame this hike on Putin, but the vast majority of the 72-percent increase in gas prices since President Biden took office predates the war in Ukraine and sanctions on Russia.

Every gallon of gas purchased at current prices hits family budgets hard, especially in rural States like South Dakota where driving long distances is the norm. Diesel averaged $2.68 a gallon in January of 2021. As of yesterday, it was $5.07. That not only hits our transportation sector and truckers but farmers across the country as they plant their fields this spring.

There is no easy solution on inflation, but the first imperative is to do no more harm. Once Democrats saw the inflationary effects of their $1.9 trillion spending bill, they should have instantly resolved to refrain from any more unnecessary government spending. Big spending, however, is a way of life for Democrats. So instead of committing to spending restraint, they spent last fall pushing for a second massive spending spree that would have made our inflation situation that much worse. And while that reckless tax-and-spending spree was mercifully halted in the Senate last December, the President's recent budget request made clear that Democrats are still intent on implementing many of their tax-and-spending spree's measures.

That is right. Democrats unleashed the worst inflation in 40 years by flooding the economy with unnecessary government money, and they still want to double down on that strategy. If Democrats have their way on government spending, our inflation crisis could last for years to come.

Mr. President, while there are few things the President and Democrats can do to speed up the end of their self-inflicted inflation crisis other than not making it worse, there are actions that Democrats can take to address the high energy costs that Americans are facing, and chief among those things is unleashing American energy production of both alternative and conventional energy. Unfortunately, the President seems pretty committed to doing the opposite when it comes to conventional energy. He has asked other countries to increase their conventional energy production, but he has made it clear that he is not interested in seeing the United States do the same.

While his administration is finally conducting sales for new onshore oil and gas leases, it has reduced the land available for such leases and substantially increased the royalty rate, sending a clear signal to American energy producers that the administration is reluctant to collaborate with it. Meanwhile, the Securities and Exchange Commission has proposed requiring costly new financial disclosures that would discourage investment in conventional energy production.

While Democrats may wish it weren't so, the fact of the matter is that our country will still need oil and natural gas for years to come; and if Democrats and the President didn't want Americans to be paying sky-high prices to fill their cars, they need to focus on encouraging responsible oil and gas production here at home, which, I might add, puts Americans to work in good-paying jobs and develops these resources with fewer emissions than are produced in other countries. Forcing our country to increase our reliance on foreign energy sources will do nothing but drive up energy prices, not to mention jeopardizing national security. Boosting domestic production, on the other hand, would drive down energy prices while ensuring that we don't have to rely on dictators or unstable countries for energy.

In addition to our energy and inflation crises, we are also facing a massive crisis at the southern border. Almost from the day the President took office, we have seen a huge surge in the number of individuals attempting to illegally make their way across the southern border. In March alone, U.S. Customs and Border Protection encountered 221,303 individuals attempting to cross our southern border illegally. In the first quarter of 2022, more than half a million individuals were apprehended while trying to get across our southern border. And the influx shows no signs of stopping.

And what has the President done to address this crisis? Next to nothing. In fact, the truth is that this is a crisis largely of the President's own making. The series of actions that he has taken to weaken border security and immigration enforcement has encouraged a flood of illegal immigration across our southern border. In fact, the President's lawyers are over at the Supreme Court today arguing against a measure to discourage illegal immigration.

And now the President is on track to make our current border crisis much worse by lifting title 42 COVID–19 restrictions that have provided for the immediate deportation of individuals who have crossed the border illegally. Once these restrictions are lifted, the Department of Homeland Security expects as many as 18,000 migrants per day—18,000 per day—to attempt to cross our southern border.

I mentioned that we have seen more than half a million attempted illegal crossings in the first 3 months of this year. Without title 42 restrictions, we could be seeing more than half a million attempted crossings each month, and it is clear that the President has no substantive plan in place to deal with such a surge.

I was relieved—as I think a lot of Americans were and I think a lot of Democrats, honestly, here in the Senate—that yesterday a Federal judge issued an order temporarily preserving title 42. But this is not a permanent solution to the problem. Title 42 should not be lifted until the President has a robust plan in place for discouraging illegal immigration, securing our border, preventing human trafficking and drug trafficking, and quickly deporting those who seek to illegally enter our country.

So here is where we are, Mr. President: We have an inflation crisis that is driving up costs for American families. We have an energy crisis, with sky-high gas prices fueling pain at the pump. And we have a security, humanitarian, and enforcement crisis at our southern border. That is what a year and a quarter of Democratic governance looks like.

And since Democrats show no signs of taking steps to address these crises, that is what Democratic governance is likely to look like for the foreseeable future. Meanwhile, the American people will continue to pay the price.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CASSIDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEMBERING JOHNNIE JONES

Mr. CASSIDY. Mr. President, today my State and I think the entire country should both mourn the loss and celebrate the life of an American hero and dedicated civil rights leader—Johnnie Jones, who recently died at age 102 but in his 102 years fought for our country, fought for the free world, and also fought to bring civil rights to a better place.

During World War II, Johnnie Jones helped storm the beaches of Normandy as part of D-day, liberate France from Nazi occupation—along the way, being part of the Battle of the Bulge. He was injured during the D-day invasion when his ship hit a mine, and he suffered shrapnel wounds from German air attacks, but he never stopped fighting.

When he came back, he attended Southern Law School and then led civil rights efforts in Baton Rouge. He legally represented the organizers at the Baton Rouge bus boycott, which served as a forerunner or a template for the Montgomery bus boycott. Throughout his career, he took on several civil rights cases, advocating for equality under the law, and served a term in the Louisiana House of Representatives.

His commitment to service and his love of our country was not just admirable but inspiring.

Last year, I had the honor to present him with a Purple Heart for the wounds he received during the D-day invasion in 1944.

My grandson has been to the World War II Museum in New Orleans—a tremendous museum—and he is now very much into the heroism of our soldiers who were in both World War II and World War I. So I took my grandson to meet Mr. Jones because I wanted him to meet a real-life hero.

Here you see him at 102—so proud of his medals, saluting.

My grandson, just the other day, said: Papaw, remind me of that man we met. So his meeting Mr. Jones 2 years ago has inspired a 7-year-old to live his life a better way.

So, as Mr. Jones salutes us, shall we all be inspired, shall we always remember the heroism abroad and the heroism here.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

EARTH DAY

Mr. CARDIN. Mr. President, as Lady Bird Johnson said, ''The environment is where we all meet, where we all have a mutual interest; it is the one thing all of us share.''

This quote from when she served as First Lady of the United States during President Lyndon Baines Johnson's time in office, from 1963 to 1969, still resonates with us today as we commemorate Earth Day 2022 and reflect on our relationship with nature and the world we share with each of us every day.

April 22, 1970, marked the first annual Earth Day, which led to the formation of the U.S. Environmental Protection Agency—the Agency that is responsible for implementing environmental regulations and standards.

We have made great strides in protecting the environment and public health through the Clean Air Act, Clean Water Act, and Endangered Species Act, but the data and science surrounding the harmful effects of climate change are alarming. Climate change is harming our ecosystems, waterways, forests, wildlife, and our general environment.

This year's sustainable development goals theme and call to action is ''Invest in Our Planet.'' The question for climate action is no longer ''if'' or ''when'' but ''how much?'' if we want to have a healthy, habitable Earth.

Strong policies that protect our water resources, fisheries, and wildlife and address the challenges of climate change are a top priority of mine in my role as a member of the Senate Committee on Environment and Public Works.

I applaud President Biden for setting forth ambitious but attainable climate-friendly goals, driven by science, to help preserve the health and safety of our planet and the public. I applaud President Biden's Executive actions in January of 2021 to reverse steps President Trump took that weakened Federal protections under the Endangered Species Act. I applaud President Biden's commitment to conserving 30 percent of America's lands and oceans by 2030, also known as the America the Beautiful Initiative.

With the understanding that we need to meet the moment on climate change and preserve our planet, Congress passed the Infrastructure Investment and Jobs Act, which President Biden signed into law last November. This

historic legislation serves as a significant downpayment on our future as we seek to strengthen resiliency and mitigation measures against flooding and sea level rise; shift towards greener, cleaner energy and technology; and form meaningful habits to clean up the world around us by recycling, composting, and disposing of waste products properly.

The threat of sea level rise and warming temperatures is already detrimental to our coastlines and ecosystems, especially along the Chesapeake Bay. With numerous and successful restoration efforts underway, the Infrastructure Investment and Jobs Act authorizes an additional $238 million to the Chesapeake Bay Program to make even bigger reductions in nutrient pollution to improve water quality in the surrounding tributaries.

In partnership with local jurisdictions, stakeholders, and the U.S. Army Corps of Engineers, the bipartisan infrastructure act will deliver $37.5 million in Federal funding for the Mid-Chesapeake Bay Island Ecosystem Restoration Project. The purpose of the project is to rebuild the declining James and Barren Islands in Dorchester County and provide a substantial increase of habitat for a variety of fish and wildlife species by repurposing dredged material from the shipping channels for the Port of Baltimore. This is beneficial use of dredged material to keep our channels at the necessary depth for commerce but do it in a way that restores our environment. Wetlands provide natural flood control solutions as climate change brings increasingly frequent and severe weather events.

We only have one planet, which is why every decision and every failure to act matters.

I would like to thank our Federal workforce this Earth Day for its efforts to maximize this window for action on climate and environmental justice. The Biden administration has directed each Federal Agency to take strong action when it comes to dealing with our climate and environmental justice. Many civil servants are working around the clock to promulgate rules, strategy documents, and much, much more. For example, White House officials this month announced equity action plans for more than 90 Federal Agencies designed to combat systemic barriers to opportunities in underserved communities.

Each day of COP26 U.N. Climate Change Conference in Glasgow explored a new topic. Our Senate delegation had an opportunity to attend on the day that was devoted toward Nature Day. I mention that because our nature depends upon us dealing with the climate agenda.

I would just call to my colleagues' attention the series that is hosted by former President Barack Obama, ''Our Great National Parks.'' Take a look at how important it is in preserving our environment for the species around us, which affects not only their ability to live but our ability to live.

The month of April represents the opportunity to celebrate other related environmental and nature-focused holidays, such as Arbor Day, which falls on April 29 this year. My home State commemorated Maryland Arbor Day at the beginning of the month, on April 9. This year, we celebrate the 150th anniversary of Arbor Day. The goal of Arbor Day is to celebrate nature within our communities by organizing tree planting or trash and litter cleanups. As President Franklin Delano Roosevelt remarked, ''A nation that destroys its soil destroys itself. Forests are the lungs of our land, purifying the air and giving fresh strength to our people.''

The bipartisan infrastructure law also provides $275 million grant funding for the U.S. Environmental Protection Agency's Post-Consumer Materials Management Infrastructure Grant Program, which the Save Our Seas 2.0 Act established. This program will help prevent plastic waste from entering our environment in the first place. The program will provide grants to States to improve local waste management systems, including municipal recycling programs, and to improve postconsumer materials management and infrastructure to reduce plastic waste in our waterways and oceans, ultimately protecting our planet.

I agree with Paul Hawken, who said this in a commencement address at the University of Portland in 2009:

> At present, we are stealing the future, selling it in the present, and calling it gross domestic product. We can just as easily have an economy that is based on healing the future instead of stealing it. We can either create assets for the future or take the assets of the future. One is called restoration and the other [is called] exploitation. And whenever we exploit the earth we exploit people and cause untold suffering. Working for the earth is not a way to get rich, it is a way to be rich.

Protecting our planet is a collective and ongoing effort. While we still have much to do, I am encouraged by the legislative and administrative progress we have made so far. I urge my colleagues to take the next step and pass the Build Back Better Act—transformative legislation for a clean energy economy.

This Earth Day, let us heed Paul Hawken's comments: ''Working for the earth is not a way to get rich, it is a way to be rich.''

With that, Mr. President, I suggest the absence of a quorum.

I yield the floor.

The PRESIDING OFFICER (Mr. LUJÁN). The clerk will call the roll.

The bill clerk called the roll.

Mr. LEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF ALVARO M. BEDOYA

Mr. LEE. Mr. President, if the nanny state had a mascot, it would be the Federal Trade Commission. In fact, back in the 1970s, the FTC earned the nickname the ''National Nanny''—this, after it went on a rulemaking binge, one that triggered an unprecedented congressional response.

In response to that binge, Congress defunded the Agency for several days. In fact, it refused formally to reauthorize the Commission for some 14 years after that. Thankfully, the FTC changed approach by reining in its rulemaking initiatives. Congress, however, did not learn its lesson and has continued to grant the FTC broad powers over the years. These grants of power and the lack of congressional will have helped put the FTC on a trajectory that looks eerily similar to its ''National Nanny'' era.

Under the leadership of Lina Khan, the FTC has only accelerated into this trajectory and is now being transformed into a bigger and more invasive national nanny than ever could have been imagined in the 1970s. Her vision is to transform what is an enforcement Agency into a broader, largely independent regulatory Agency. This move would reduce the congressional oversight of key economic regulation and would also have serious negative implications for countless businesses across the Nation that could find themselves subject to the whims of an unelected, arbitrary, capricious, out-of-control Agency. The FTC is on course to take significant new powers so that it can use its already broad authorities under section 5 of the Federal Trade Commission Act and elsewhere to regulate huge swaths of the American economy.

We, accordingly, need to be very careful when considering nominees to the Commission.

As a member of the Senate Commerce Committee, I took seriously my consideration of Mr. Bedoya's nomination and spoke with him on multiple occasions regarding his nomination and regarding his vision for the Federal Trade Commission. During his nomination hearing, I took careful note of my questions to Mr. Bedoya and to his responses to ascertain his vision for the Commission and his view on the scope of the FTC's power. His answers did little to calm my concerns. In fact, they did much to add to my worries, not only about his nomination but about the future of the Commission at large.

During my questioning, Mr. Bedoya signaled that he would use section 5 of the Federal Trade Commission Act to conduct unfair methods of competition rulemaking. That, of course, would be a dangerous expansion of the FTC's rulemaking power, one that would occur without a congressional grant of authority.

He refused to share his views on the FTC's repeal of its vertical merger guidelines.

He didn't answer when I asked about his views on Lina Khan's use of zombie votes, or proxy votes, of ex-commissioners after they had left the Commission.

He would not provide a clear answer on whether he supported Lina Khan's decision to remove key procedural requirements attached to FTC rulemaking—the very statutory, procedural requirements that were instituted in direct response to the Agency's flagrant abuses of its own power in the 1970s.

And he openly supports Lina Khan's decision to close out the voice of minority commissioners to approve investigations—an action that has destroyed a bipartisan hallmark of the Commission.

Mr. Bedoya did not earn my confidence in his hearing. His nomination is not designed to strengthen American business or bolster our economy. Instead, his nomination will give the Commission the majority it needs to take American economic regulation out of the hands of elected lawmakers.

We have to remember that the very first clause of the very first section of the very first article of the Constitution says that all legislative powers herein granted shall be vested in the Congress of the United States, which shall consist of a Senate and a House of Representatives. In other words, all Federal lawmaking power—legislative powers or lawmaking powers—the power to make Federal law as articulated in article I, section I, clause 1—is vested in Congress, not in an outside Agency.

Article I, section VII puts even more clarity on it in explaining that, in order to pass a Federal law, you have got to have passage by the Senate and passage by the House of the same piece of legislation, followed by presentment to the President, resulting in signature, veto, or acquiescence. Without that, you cannot make a Federal law.

When we pretend to make Federal lawmakers outside of Congress, we have got to be very careful because this is subversive of the entire purpose of the Constitution, putting in the most dangerous power—the power to make prescriptive laws, the power to make laws adding to, altering, materially changing the obligations of members of the public. You have got to go through the branch of government that is most accountable to the people at the most regular intervals.

That is why this is so concerning that you have in Mr. Bedoya, like you have in Lina Khan, someone who doesn't fear this type of unaccountable, de facto lawmaking, not only outside of what the Constitution can countenance fairly but also outside of basic standards of accountability and good government.

For all of these reasons, I fear that Mr. Bedoya will not only enable but will support the blatant attempts made by Lina Khan to return the FTC to its status as the ''National Nanny'' and, ultimately, the national enemy.

Under her leadership, the FTC has shown disregard for the input of minority commissioners and has been frustrated by the legal limits surrounding the FTC's authority. Lina Khan is not afraid to lead the Agency on a path that ignores legal, constitutional, and procedural roadblocks in its way.

I am committed to reversing the dangerous trajectory of the FTC; to making sure that we don't return to the 1970s era of the FTC's being the nanny of the nanny state; and to making sure that we restore the FTC's accountability to Congress and, ultimately, to the people.

We have to remember that true accountability in our system of government—accountability related to what the law is and how the law is written—always has to be with Congress. That is why article I is written the way that it is. It is why this is something that has to be understood appropriately as a nondelegable duty—that is, the power to make law.

We have got to restore that accountability, and I fear that Mr. Bedoya will only further enable the radical takeover of the Federal Trade Commission. I, therefore, cannot and will not support his nomination.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. LEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Ms. SINEMA).

EXECUTIVE CALENDAR—Continued

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Madam President, I ask unanimous consent to speak for up to 90 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF LAEL BRAINARD

Mr. BROWN. Madam President, as America faces rising prices caused by corporate greed in a global pandemic and Putin's war, having a full Fed Board has never been more vital. Today, we take the first step.

Dr. Brainard is a highly qualified economist with decades of experience. She served as a member of the Board of Governors of the Federal Reserve since 2014. She championed efforts to modernize and strengthen the Community Reinvestment Act. She is committed to addressing and staying ahead of financial risks to our economy. She has a long history of bipartisan support and collaboration. She served in administrations of both parties.

I urge my colleagues to support the nomination and to vote for Lael Brainard to the Federal Reserve.

VOTE ON BRAINARD NOMINATION

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the Brainard nomination?

Mr. MENENDEZ. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Pennsylvania (Mr. CASEY), the Senator from Delaware (Mr. COONS), the Senator from Connecticut (Mr. MURPHY), the Senator from Michigan (Mr. PETERS), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

The result was announced—yeas 52, nays 43, as follows:

[Rollcall Vote No. 136 Ex.]

YEAS—52

Baldwin	Heinrich	Rosen
Bennet	Hickenlooper	Rounds
Blumenthal	Hirono	Sanders
Booker	Kaine	Schatz
Brown	Kelly	Schumer
Cantwell	King	Shaheen
Cardin	Klobuchar	Sinema
Carper	Leahy	Smith
Collins	Luján	Stabenow
Cortez Masto	Lummis	Tester
Crapo	Manchin	Van Hollen
Duckworth	Markey	Warner
Durbin	Menendez	Warnock
Feinstein	Merkley	Warren
Gillibrand	Murray	Whitehouse
Graham	Ossoff	Young
Hagerty	Padilla	
Hassan	Reed	

NAYS—43

Barrasso	Grassley	Risch
Blackburn	Hawley	Romney
Blunt	Hoeven	Rubio
Boozman	Hyde-Smith	Sasse
Braun	Inhofe	Scott (FL)
Burr	Johnson	Scott (SC)
Capito	Kennedy	Shelby
Cassidy	Lankford	Sullivan
Cornyn	Lee	Thune
Cotton	Marshall	Tillis
Cramer	McConnell	Toomey
Cruz	Moran	Tuberville
Daines	Murkowski	Wicker
Ernst	Paul	
Fischer	Portman	

NOT VOTING—5

Casey	Murphy	Wyden
Coons	Peters	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's actions.

The Senator from Ohio.

UNANIMOUS CONSENT REQUEST—ORDER OF PROCEDURE

Mr. BROWN. Madam President, I ask unanimous consent that notwithstanding rule XXII, the cloture vote with respect to the Cook nomination occur at a time to be determined by the majority leader following consultation with the Republican leader; further, that prior to April 29, 2022, the

Senate proceed to executive session to consider the following two nominations: Calendar No. 807, Jerome H. Powell, and Calendar No. 809, Philip Nathan Jefferson; that there be 60 minutes for debate, equally divided in the usual form, on each nomination; that upon the use or yielding back of time, the Senate proceed to vote without intervening action or debate on the nominations in the order listed; that the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order; that any related statements be printed in the Record; that the President be immediately notified of the Senate's action; and that the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

The Senator from Pennsylvania.

Mr. TOOMEY. Madam President, reserving the right to object, I want to be clear about what this unanimous consent request is about and what it attempts to do. It is an attempt not to vote, to not have the vote on Lisa Cook, the nominee. I have to say it is a reminder of how short memories are around here.

The irony of this situation we find ourselves in is that the vacancy on the Federal Reserve Board is only a vacancy because, when Republicans had COVID absences, our Democratic colleagues would not extend the courtesy of rescheduling the vote to confirm Judy Shelton. Instead, the vote failed, and she was not confirmed. Then, lo and behold, we have this vacancy that has been proposed to be filled by Lisa Cook.

I should also point out how persistently we tried in good faith and on multiple occasions to process Fed noms throughout this entire year. We could have confirmed Chairman Powell in January. We could have processed four out of five of the Fed noms in the Banking Committee very quickly, including Ms. Cook, but our Democratic colleagues refused to allow us to process those four out of five because we did not want to process Sarah Raskin.

Now, Ms. Raskin ended up having to withdraw because there was bipartisan opposition to the radical views that she had espoused that the regulatory apparatus of the Fed ought to be used to allocate capital throughout our economy. Fortunately, there was bipartisan opposition to this idea.

Now it appears—and I guess it is the logic of my colleagues—that we can proceed as long as we are confirming everyone but Chairman Powell first. I don't understand why that has to be, but they filed cloture before the Easter break, on Professor Cook, and now they find themselves in this awkward position.

Here is what it boils down to. It is very simple. I want to vote on all of the noms. Republicans are ready to vote on all of the noms. Our Democratic colleagues have complained about not having votes. We want to vote. We want to vote on Lisa Cook. We want to vote on Chairman Powell. We want to vote on Mr. Jefferson.

We are ready to vote, not to cancel a vote, so I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Ohio.

Mr. BROWN. Madam President, I ask unanimous consent to speak for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN. Madam President, I understand that the objection holds—that the ranking member of the Senate's Banking, Housing, and Urban Affairs Committee is essentially saying he is not willing to vote on all three of these—two of them right now, the other one a bit later. I mean, it could be right now. Again, we have tried to move on these nominations.

My friend from Pennsylvania launched a boycott of a committee that I have never seen or a boycott which actually, because of the 50–50 Senate, stopped us—literally stopped us—from holding a vote. He knows that, and he knows they have done everything they can to stop Lisa Cook's nomination—everything.

I would point out also that it is not exactly an accurate version of history. Judy Shelton, whom my colleague mentioned, would have gone down if everybody had been there. He forgets that part. It wasn't just one Republican Member who was sick; it was another Republican Member who was going to vote no, and he understood the array of people in both parties who were opposed to Ms. Shelton.

In understanding that, my colleague is saying let's not vote on any of the three of them—on either the two of them today and then Lisa Cook later. I understand the rules of the Senate, and that is the way it will be.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 844, Lisa DeNell Cook, of Michigan, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 2010.

Charles E. Schumer, Mazie K. Hirono, Martin Heinrich, Tim Kaine, Jack Reed, Jacky Rosen, Ben Ray Luján, Christopher A. Coons, Alex Padilla, Sheldon Whitehouse, Sherrod Brown, Debbie Stabenow, Christopher Murphy, Patrick J. Leahy, John W. Hickenlooper, Tammy Baldwin, Angus S. King.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Lisa DeNell Cook, of Michigan, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 2010, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. MURPHY) and the Senator from Oregon (Mr. WYDEN), are necessarily absent.

The yeas and nays resulted—yeas 47, nays 51, as follows:

[Rollcall Vote No. 137 Ex.]

YEAS—47

Baldwin	Heinrich	Peters
Bennet	Hickenlooper	Reed
Blumenthal	Hirono	Rosen
Booker	Kaine	Sanders
Brown	Kelly	Schatz
Cantwell	King	Shaheen
Cardin	Klobuchar	Sinema
Carper	Leahy	Smith
Casey	Luján	Stabenow
Coons	Manchin	Tester
Cortez Masto	Markey	Van Hollen
Duckworth	Menendez	Warner
Durbin	Merkley	Warnock
Feinstein	Murray	Warren
Gillibrand	Ossoff	Whitehouse
Hassan	Padilla	

NAYS—51

Barrasso	Graham	Portman
Blackburn	Grassley	Risch
Blunt	Hagerty	Romney
Boozman	Hawley	Rounds
Braun	Hoeven	Rubio
Burr	Hyde-Smith	Sasse
Capito	Inhofe	Schumer
Cassidy	Johnson	Scott (FL)
Collins	Kennedy	Scott (SC)
Cornyn	Lankford	Shelby
Cotton	Lee	Sullivan
Cramer	Lummis	Thune
Crapo	Marshall	Tillis
Cruz	McConnell	Toomey
Daines	Moran	Tuberville
Ernst	Murkowski	Wicker
Fischer	Paul	Young

NOT VOTING—2

Murphy	Wyden

(Mr. KAINE assumed the Chair.)

(Mr. HICKENLOOPER assumed the Chair.)

(Mr. KING assumed the Chair.)

The PRESIDING OFFICER (Mr. MARKEY). On this vote, the yeas are 47, the nays are 51.

The motion is rejected.

The majority leader.

MOTION TO RECONSIDER

Mr. SCHUMER. Mr. President, I enter a motion to reconsider the failed cloture vote.

The PRESIDING OFFICER. The motion is entered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. SCHUMER. Mr. President, I ask unanimous consent to withdraw the cloture motion with respect to the Bedoya nomination because we have some absences due to illness.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate resume consideration of Executive Calendar No. 800.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

UNANIMOUS CONSENT REQUEST—ORDER OF PROCEDURE

Mr. TOOMEY. Mr. President, the chairman of the Banking Committee spoke before this vote and made the point that he wants to have a vote on all three Fed noms. I want to have a vote on all of the three Fed noms who have been under consideration and in the exchanges today. Republicans want to vote on all three.

We just voted on one of the three our Democratic colleagues had filed cloture on. The cloture ripened—it came due—and we had the vote. So the obvious thing to do here is to set up votes on the other two. The other two are Chairman Powell, who is currently the Chairman and has been nominated by President Biden to another term as Chairman, and Philip Jefferson, who has also been nominated by President Biden. I think he would be the second African-American man in, maybe, the history of the Fed. I am not positive of that, but I think so.

It makes a lot of sense to go with both of them because there is overwhelming support for them. In fact, in the committee, Chairman Powell, I think, was reported out successfully. I think there was only one vote in opposition to Chairman Powell. He was overwhelmingly supported in the committee, and I think, very likely, overwhelmingly would be supported on the floor. Mr. Jefferson was unanimously reported out of the committee. In other words, every single Republican and Democrat on the Banking Committee supported Philip Jefferson, and I am pretty sure still does, as I do.

My point is, I think we ought to go ahead and set up the votes. We don't have to have the votes right this minute, but we should set them up, and we should do it soon. So I have a unanimous consent request which is identical to the unanimous consent request that was just proposed by our chairman but for the reference to Lisa Cook. Since we just had that vote, obviously, it doesn't make sense to include her in the unanimous consent request.

Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, following consultation with the Republican leader, prior to April 29, 2022, the Senate proceed to executive session to consider the following nominations: Calendar No. 807, Jerome H. Powell, and Calendar No. 809, Philip Nathan Jefferson; that there be 60 minutes for debate, equally divided in the usual form, on each nomination; that upon the use or yielding back of time, the Senate proceed to vote, without intervening action or debate, on the nominations in the order listed; that the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

The Senator from Ohio.

Mr. BROWN. Mr. President, I reserve the right to object.

I was going to say it is disappointing—I guess ''appalling'' would be the better word—but it is not at all surprising because I have watched my colleagues do everything they can to slow and delay, even boycott actual votes en bloc. I have watched what they have done to these nominees and watched them continue to play politics with our economy.

They have been AWOL on the fight against inflation for months. They talk about it a whole lot, but they don't really have solutions. Yet they haven't abandoned their tax cuts for the corporations that are raising people's prices, as the Presiding Officer knows and has spoken passionately about the companies that are making more and more and more money all the time—the biggest profits in American history. These companies continue to raise prices because they can; but my colleagues, when they have had opportunities to get talented, qualified women on the job to fight inflation at the Fed, they have blocked them.

Today, about an hour and a half, 2 hours ago, we offered to vote, right now, to get Chair Powell and Dr. Philip Jefferson on the Fed Board immediately, and part of that motion was to delay the vote on Dr. Lisa Cook until all of our Members are here and healthy.

My colleague on the Banking, Housing, and Urban Affairs Committee understands that a number of Senate Democrats were sick today and couldn't come and vote. So we just said in our motion: Yes, let's go ahead and vote on Chair Powell—I am going to vote for him—and let's go ahead and vote on Dr. Jefferson. I am going to vote for him, too, and virtually all of my colleagues are, but let's just hold off on Dr. Cook because it is a close vote.

Every single Republican is voting against a very qualified and the first African-American woman to be on the Federal Reserve in its 109-year-old history, but Senator TOOMEY objected to those two votes and with the request to just delay Dr. Cook for a time until Members could come back. He would rather play politics. He continues to denigrate this distinguished nominee—again, the first Black woman to ever be nominated to the Fed. For some reason, the Republican members of my committee take great joy in trying to embarrass this nominee by saying she is not qualified.

Not qualified? Spelman College.

Not qualified? A Marshall Scholar.

Not qualified? A Truman Scholar.

Not qualified? Studied at Oxford.

Not qualified? Has a Ph.D. from Berkeley.

These are all some of the greatest schools in the country.

Not qualified? An economist at Michigan State University—one of the great State institutions in my part of the country. That is not qualified? Dr. Cook is a leading economist, with years of research and international experience in monetary policy on banking and financial crises.

Maybe this is what my colleagues don't like: She has seen how economic policy affects all kinds of different people in different parts of the country—from the rural South, where she grew up, to the industrial Midwest, where she built a career. These are two parts of the country that have been particularly affected in a negative way by globalization.

Again, she is a Spelman College alumna, a Marshall Scholar, a Truman Scholar; studied at Oxford; has a Ph.D. from Berkeley; is a tenured professor for economics and international relations in the State just north of me—in East Lansing, MI, at Michigan State University.

Yet, despite this extensive experience and her broad support, a small but excruciatingly loud—if I could use that adverb—minority, far outside the mainstream, has engaged in a smear campaign against Dr. Cook, the same sorts of attacks that Black Americans and women have faced for far too long.

I won't recite the litany of votes in my committee against very qualified women and very qualified African-American women. Senate Republicans buy into these attacks and in some cases are making these attacks.

These naysayers absurdly claim that Lisa Cook doesn't meet the standards for this position, standards that seem to apply only to certain nominees who happen to be women, particularly Black women.

It is sort of a game of Whac-A-Mole. Each time these assertions and these allegations are rebutted, a new, more untethered one seems to arise.

Dr. Cook would be—and I would assert. I don't just assert. I am certain she will be the first Black woman on the Federal Reserve in its more than 100-year history.

Think about that. This is a country that in my State—the ranking member's State—10 to 15 percent are African Americans. In this country, about 12 or 13 percent are Black. The Federal Reserve is made up of seven people. In 1913, it was founded. In 109 years, there has never been a Black woman. We have a chance to put an outstanding, very qualified Black woman on, and for some reason, they say no.

We are going to confirm her once our Members are healthy. There are a couple of Members who missed it. I believe it is two because of COVID. They are

going to come back, and we are going to confirm her. But for some reason, the ranking member of the committee would like to just embarrass Dr. Cook a little bit more.

First, they make all these unwarranted attacks. Then they block her in committee. Then they—well, they called a boycott to stop any committee action on another very qualified woman. And I might add, parenthetically, because the oil industry didn't like her.

One of the things I particularly like about Dr. Cook is she understands—and maybe this is the objection. They want a Federal Reserve that is more sort of corporate-dominated, corporate-oriented instead of putting workers at the center of our economy.

I know Senator MERKLEY has been one of the leaders here, always understanding that workers should be the center of this economy. That is what Dr. Cook will do in the Federal Reserve.

She understands the smalltown South. She understands the industrial Midwest. She has worked on the west coast. She has worked all over this country. She is international in the way she looks at things. But, fundamentally, she comes down to ordinary, middle-class people and those who aspire to the middle class.

She is ready to get to work to protect Americans from rising prices. We need her. We need all of President Biden's nominees on the job right now.

But, again, Senate Republicans could have earlier said yes—he didn't have to object—yes, we will go forward with Powell; we will go forward with Jefferson, but we want to embarrass Dr. Cook first. We want to show that we have the political muscle to defeat a really, really, really accomplished Black woman first.

That is what they decided, that scoring political points is more important than serving the public and bringing down prices.

So today, once again, a qualified Black woman is going to have to wait. A qualified Black woman is going to have to wait and wait and wait. We are going to confirm her, but she is going to have to wait a little bit longer until the two Members of the Senate who are sick can return.

The American people are going to have to wait, all because Senate Republicans have decided their political gamesmanship is more important than the constituents they are supposed to serve.

I, one last time, say: Make no mistake, we will confirm all of these Federal Reserve nominees. We could do it a lot faster if my colleagues wanted to cooperate.

I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Pennsylvania.

Mr. TOOMEY. Mr. President, I have to say it is sad and shameful to hear the chairman suggest, which he has done repeatedly now, including on the Senate floor, that there is some kind of racial bias against Black women that is a motivation for Republicans.

I would like to point out, for the record, the fact that on the Senate Banking Committee, every single Republican Senator has voted in favor of confirming five different Black women to different posts in just this Congress, President Biden's nominees who are Black women, and they include Cecilia Rouse, Nuria Fernandez, Adrianne Todman, Alexia Latortue, and Alanna McCargo. And yet we hear this preposterous notion that somehow the race of the candidate is what is going on here.

The fact is, we have a difference of opinion about what qualifies a person to serve on the Fed. And it is not some tiny, obscure minority that is concerned about Lisa Cook's qualifications to be fighting inflation when she refused to articulate any plan for dealing with inflation; it was the majority of the Senate who just voted. We just had the vote.

I should also point out that what is the difference here? The difference is, we want to vote, and you just heard the chairman block a vote on President Biden's nominee to Chair the Fed, Jerome Powell, and Professor Philip Jefferson. The chairman doesn't want votes on either of them, apparently, and certainly not on both of them; he just objected.

I would remind everyone that for months now, we have been trying to process the Fed nominees, and our Democratic colleagues refused. What we said was, there are five nominees. Only one of them we are going to object to processing. The reason was because of her radical views about using the supervisory powers of the Fed to allocate capital throughout the economy. That was a pretty radical idea. And guess what? The majority of the Senate agreed with us, and so she withdrew her candidacy.

We had offered for months now to process the other four. Earlier today, we were willing to do all three, but I think the record should show our Democratic colleagues refuse to allow us to have a vote today or tomorrow or this week—that is what we asked for; we used the exact same language the chairman had used earlier—on the Chairman of the Federal Reserve and Professor Philip Jefferson.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Mr. President, just to be clear, we did offer just an hour, maybe 2 hours ago—the ranking member and I have spoken for maybe 20 minutes, more or less.

Just to be clear, we offered in that unanimous consent request that we vote on both Chair Powell and Dr. Jefferson and simply delay the vote on Dr. Cook because several Members who wanted to vote for her were not here.

Instead, the ranking member decided he wanted to just, one more time, try to embarrass Dr. Cook. It is not really going to work because we are going to confirm her. But just to be clear, my motion, only 2 hours ago, was let's move forward on those two. That was rejected by Senator TOOMEY.

I yield the floor.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Sherilyn Peace Garnett, of California, to be United States District Judge for the Central District of California.

The PRESIDING OFFICER. The Senator from Oregon.

TRIBUTE TO BJ WESTLUND

Mr. MERKLEY. Mr. President, a little over 10 years ago, BJ Westlund made his way from Bend, OR, here to our Nation's Capital to serve his fellow Oregonians as a correspondence assistant in my office.

Over the last decade, BJ moved up the ranks to legislative correspondent and legislative aide and then had the opportunity to move back to Oregon, move back to Bend, as my field representative.

He has done an incredible job in that capacity, but he is now, after a number of years in that key role, ready to start a new chapter in his career.

I know that I speak for everyone on my team, whether in Washington, DC, or in Oregon, when I say that we are thrilled to see BJ continue to grow and thrive in his career, but we are also very saddened to see him go.

Ask anyone on the team, past or present, about BJ, and there are a couple of things that might jump to mind: his signature sense of style for one. He loves to wear a good vest. Whether here in DC or in Oregon, it is hard for anyone to picture BJ without a good vest. And wherever BJ is, you can bet there is a tasty cold mix of iced tea and lemonade not far away.

And BJ has taken on the role of overseeing the Team Merkley candy desk while he was here in Washington, DC, making sure it was always stashed with really good candy.

Before we changed offices in Hart, the legislative team was split between two floors. BJ was upstairs working on environmental and energy issues and referred to that area as ''Eastern Oregon.'' But without fail, you could find a steady stream of folks going up the staircase to stop by BJ's desk and grab a piece of candy and chat. It was our version of the office water cooler and a way for BJ to help build a sense of community between all the team members.

That is the fourth thing that comes to mind when people think about BJ, is his sense of community, his welcoming presence, his ability to connect. It is what made him such an effective legislative staffer, working with groups on their priorities, advocating for critical appropriations funding. And for the

last 4 years, it is what made him such an incredible representative for our office throughout Central Oregon.

When asked to share her thoughts about BJ, one of our former team members who worked very closely with him over many years had this to say:

BJ is the calm in the storm. He is a steady, intelligent, caring, supportive teammate who cares beyond measure for his constituents. He has worked tirelessly to solve problems and bring Oregon tax dollars home to Central Oregon.

She continued:

Moving to his home office during COVID while continuing to be responsive to both teammates and constituents was a smooth transition because BJ handles challenges with aplomb.

And she closed by saying:

He is a treasure and just a wonderful human being.

And I couldn't say it any better.

BJ is the calm in the storm. BJ is a wonderful human being. BJ does work tirelessly to solve problems.

That is why, when the Bootleg fire struck Oregon last year, the third largest fire in our State's history, it was BJ who took charge of reaching out to and connecting with the communities impacted by the devastation. And it is a good thing he was, because community members, Tribal leaders, landowners, business owners, local electeds, agency leaders, relief agencies, and conservationists all looked to BJ to be there for them.

They knew that he would reach out. They knew he would listen to what they needed. They knew that he would do whatever it took to be there to respond to those challenges.

BJ has been the central driver on many major projects. One was getting funding for irrigation piping projects to help Oregon farmers get more water, while simultaneously putting more water back in our rivers, a positive environmental effect.

A second was helping an Oregonian Tribe find justice by finally repealing the fraudulent 1865 treaty that robbed them of their hunting and fishing rights.

A third was almost doubling the size of the Cascade-Siskiyou National Monument for future generations of Oregonians to enjoy, a monument that comes at the intersection of three critical mountain ranges and has flora and fauna found nowhere else in the world.

BJ is the kind of person who takes extra pride in drafting a customized letter to a student or making a one-off phone call to a constituent looking for help or advice because taking that small extra step can restore their faith and their trust in government.

But anyone who knows BJ wouldn't be surprised by any of this because they know how intensely he believes in public service. It is how he was raised. It is what he saw and learned growing up from his father, who was a good friend of mine, Ben Westlund, whom I had the privilege of serving with in the Oregon statehouse before he went on to serve as an Oregon senator and Oregon treasurer.

We lost Ben about 12 years ago, before BJ came to work on my team, but I know how proud he would be if here with us today to see all the great things that his son has done and will continue to do in service to the people of Oregon.

So, BJ, thank you for all you have done throughout your time on Team Merkley to help build a better world. The team and I wish you well as you begin the next chapter of your life, and we can't wait to see all of the great things that you will continue to do and to achieve in the years to come.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANDERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

CORPORATE GREED

Mr. SANDERS. Mr. President, the American people are increasingly outraged by the level of corporate greed that we are seeing in this country. As you know, while prices are rapidly increasing, corporate profits are soaring: in the oil industry in what we pay at the gas pumps; in the food industry in what we pay in grocery stores; in housing and in so many other areas. Meanwhile, while the very, very rich get richer, because of inflation, many workers are now seeing a decline in their real wages.

During this pandemic, unbelievably—and I hope that everybody knows this—while workers have been struggling, the billionaire class, people who are worth at least $1 billion, have seen a $2 trillion increase in their wealth; and the level of income and wealth inequality today is the highest that it has been in over 100 years.

Two people—Mr. Musk and Mr. Bezos—now own more wealth than the bottom 42 percent of American society—over 130 million people. Two people own more wealth than the bottom 130 million Americans.

In the midst of all of this—inflation, inequality, corporate greed—working people have declared loudly and clearly that enough is enough. We must end the corporate greed that is hurting so many of our families. Workers are now fighting back in a way that I have not seen for a very long time to improve their standard of living, to get the wages and benefits they desperately need, and to get a seat at the negotiating table in a way that has not taken place in a very, very long time.

Workers throughout this country are now in the process of organizing unions at a grassroots level and are prepared to go out on strike when the greed of large corporations prevents them from receiving decent wages and decent benefits. During the last couple of years, I have personally been involved in a number of union-organizing campaigns and strikes throughout the country—from John Deere, Nabisco, and Kellogg's in the Midwest to the Warrior Met strike in Alabama—which continues today—to the Kroger grocery store strike in Colorado, and many others—and I have to say that I have been incredibly impressed by the solidarity and the courage of those workers who are prepared to stand up for justice against very powerful corporate interests.

As I am sure the Presiding Officer knows, a historic union victory was achieved nearly 1 month ago by Amazon workers in Staten Island. Amazon is one of the most profitable and one of the most powerful corporations in America. It is also one of the largest employers in our country, with close to a million workers.

We are talking, when we talk about Amazon, about a company that made a record-breaking $36 billion in profit last year—$36 billion. And that was a 453-percent increase from where it was before the pandemic. In other words, Amazon today is doing unbelievably well, and, in fact, it is doing better as a company than it has ever done before.

We are talking about a company that is owned by Mr. Jeff Bezos, the second wealthiest person in America, worth $170 billion. Let me repeat that. He is not the wealthiest; he is only the second wealthiest, worth $170 billion.

And here is something that is interesting and tells you about our corrupt political system and our regressive and unfair tax system. We are talking about a company—Amazon—that makes huge profits, that paid nothing—zero—in Federal income taxes in 2017 and 2018 and paid a lower tax rate, Federal tax rate, than a nurse or a firefighter last year, after making billions in profits. The average nurse, firefighter, or grocery store worker has an effective tax rate that is higher than what Amazon's was last year.

We are also talking about Mr. Bezos as an individual, who, in a given year, despite his extraordinary wealth, has also paid zero—nothing—in Federal taxes.

It is funny. On Sunday, I was in New York City, and I stopped in a McDonald's and was talking to one of the guys who works there. I asked him how much money he made. He makes $15 an hour. And then he came back and said: Well, they take out over a dollar in Federal taxes. So a guy working in McDonald's for $15 an hour probably has a higher tax rate than the second wealthiest person in this country.

That is what happens here in Washington when you are somebody like Mr. Bezos or some other billionaire and you make a lot of campaign contributions and you have an army of accountants and lawyers who help you avoid your tax responsibilities.

Mr. President, during the pandemic the last several years, Mr. Bezos, like

many other billionaires, did very, very well. In fact, since March of 2020, Mr. Bezos became $65 billion richer, in just a couple of years—huge increase in his wealth. So, Mr. President, if you ask me why people in this country are really, really angry, I will tell you, and that has a lot to do with the reality that, in the midst of the pandemic, in the midst of the massive economic dislocation that we have seen, we have lost tens of thousands of essential workers, people who live paycheck to paycheck, who had no choice. They had to go into a warehouse. They had to go into a grocery store. They had to drive a bus. They had to do all of the things that keep America going; and as a result of that, having to go to work, thousands of them contracted COVID and many thousands actually died. That is what happens when you are an ordinary worker in America living paycheck to paycheck. You don't have a choice. You have got to go to work to feed your family.

And during that same period, the billionaires and Mr. Bezos made out like bandits. Bezos himself became $65 billion richer. Jeff Bezos has enough money to own a $500 million yacht—$500 million yacht. He has enough money to afford a $175 million estate in Beverly Hills. He has enough money to afford a $78 million, 14-acre estate in Maui. He has enough money to own a $23 million mansion right here in Washington, DC, which has 25 bathrooms. So if you are in Washington, DC, and you have to go to the bathroom, you know someplace that you can possibly go. Mr. Bezos has enough money to buy a rocket ship to blast William Shatner to the edge of outer space.

Yet even though Mr. Bezos can afford all of these mansions and his $500 million yacht and his rocket ship, Mr. Bezos refuses to pay his workers at Amazon decent wages, decent benefits, or provide decent working conditions.

That, Mr. President, is what excessive greed is all about, and that is why the American people are saying enough is enough. The American people want action from the President; they want action from Congress; and we have got to deliver.

From the very beginning of the union-organizing effort until today, Mr. Bezos and his company have done everything possible—legal and illegal—to defeat the union effort. In fact, Amazon cannot even come to grips with the reality that workers in Staten Island won their union election fair and square. In order to stall the process out, Amazon's lawyers have appealed that election result to the NLRB. Their strategy, as is often the strategy of corporate interests confronting unions, is to use their incredible resources, their unending amount of money, to stall, stall, and stall.

In every way possible, Amazon is refusing to negotiate a fair first contract with the Amazon Labor Union. In fact, Amazon has been engaged in a massive attempt to undermine the union organizing drive in direct violation of labor laws and regulations.

Let's be clear. Amazon has already been penalized more than $75 million for breaking Federal discrimination and labor laws. Amazon is currently being sued by the National Labor Relations Board to reinstate a worker who was illegally fired for organizing a union. To date, there are currently 59—59—unfair labor cases against Amazon pending at the National Labor Relations Board. Several current and former employees at Amazon have alleged that the company has engaged in illegal harassment and discrimination based on race, gender, and sexual orientation.

Amazon misclassifies delivery drivers as independent contractors rather than employees in order to evade tax, wage, and benefit responsibilities.

Amazon's inadequate workplace safety policies also pose grave risks to workers. If you can believe it—and this really is quite unbelievable—according to a New York Times investigation, Amazon warehouses have a 150-percent turnover rate—150 percent a year. Workers come into the warehouses; they are worked as hard as humanly possible. And then after they are exhausted and physically broken down, they leave and then a whole new set of workers comes in and the process continues. Further, in some locations, their workplace injury rates are more than 2½ times the industry average.

I was in Staten Island on Sunday talking to some Amazon workers, and they tell me that injuries take place every single day, and many of them go unreported. Last December, six Amazon workers died after they were required to continue working during unsafe weather conditions in a warehouse that did not have appropriate safety facilities or policies.

It is abundantly clear that time and time again, Amazon has engaged in illegal anti-union activity. Amazon may be a large and profitable corporation, it may be owned by one of the wealthiest people in America, but it cannot be allowed to continue to violate the law and the rights of its employees. If working people are asked to obey the law, they do it, or they get punished. That same principle must be upheld for a large and powerful corporation like Amazon.

That is why this morning, I sent a letter to President Biden urging him to sign an Executive order to prohibit companies like Amazon that have violated labor laws from receiving Federal contracts paid for by the taxpayers of America.

Let me quote directly from the letter:

Dear President Biden, last September, I was delighted to hear you State that you ''intend to be the most pro-union President leading the most pro-union administration in American history.''

That is from President Biden.

At a time of massive income and wealth inequality, where too many workers are falling behind, your sentiment [Mr. President] is exactly right. We need to build the trade union movement in America and allow [more] workers to engage in collective bargaining.

One of the most effective ways for you [President Biden] to begin accomplishing this important goal would be to ensure that no corporation that is engaged in illegal anti-union activities receives a contract paid for by the taxpayers of the United States.

That would be enormously effective in curtailing the illegal activities of companies like Amazon. I then continued in saying in my letter to the President:

As you will recall [Mr. President], during the presidential campaign you promised to ''institute a multi-year federal debarment for all employers who illegally oppose unions'' and to ''ensure federal contracts only go to employers who sign neutrality agreements committing not to run anti-union campaigns.

That is what President Biden said as a candidate for President.

Then I say in my letter:

That campaign promise was exactly right. Today, I am asking you to fulfill that promise . . . As you may know, Amazon, one of the largest and most profitable corporations in America, is the poster child as to why this anti-union busting Executive Order is needed now more than ever.

Mr. President, I ask unanimous consent that the full text of the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APRIL 26, 2022.

President JOSEPH R. BIDEN,
The White House,
Washington, DC.

DEAR PRESIDENT BIDEN: Last September, I was delighted to hear you state that you ''intend to be the most pro-union President leading the most pro-union administration in American history.''

At a time of massive income and wealth inequality, where too many workers are falling behind, your sentiment is exactly right. We need to build the trade union movement in America and allow more workers to engage in collective bargaining.

One of the most effective ways for you to begin accomplishing this important goal would be to ensure that no corporation that is engaged in illegal anti-union activities receives a contract paid for by the taxpayers of the United States.

As you will recall, during the presidential campaign you promised to ''institute a multi-year federal debarment for all employers who illegally oppose unions'' and to ''ensure federal contracts only go to employers who sign neutrality agreements committing not to run anti-union campaigns.'' That campaign promise was exactly right. Today, I am asking you to fulfill that promise.

The essence of your plan for strengthening union organizing was to make sure that federal dollars do not flow into the hands of unscrupulous employers who engage in union-busting, participate in wage theft, or violate labor law.

In order to implement that plan, I urge you to sign an Executive Order preventing companies that violate federal labor laws from contracting with the federal government.

As you may know, Amazon, one of the largest and most profitable corporations in America, is the poster child as to why this anti-union busting Executive Order is needed now more than ever.

According to filings with the U.S. Department of Labor (DOL), Amazon spent over $4 million on consultants last year alone in an effort to prevent its warehouses from unionizing. As part of their illegal anti-union activity, they forced workers to attend closed-door anti-union meetings and discriminated against pro-union workers. After workers in Staten Island, New York voted overwhelmingly to join the independent Amazon Labor Union, Amazon has not only refused to negotiate a first contract with them but refuses to recognize that the union exists even though the National Labor Relations Board (NLRB) certified their union victory.

Amazon has been penalized more than $75 million for breaking federal discrimination and wage laws and is currently being sued by the NLRB to reinstate a worker who was illegally fired for organizing a union. The NLRB has found multiple instances of illegal opposition to unions by Amazon, and there are currently 59 open Unfair Labor Practice cases pending before the NLRB. Numerous current and former employees have alleged that Amazon engaged in illegal harassment and discrimination based on race, gender, and sexual orientation. Amazon misclassifies delivery drivers as independent contractors rather than employees to evade tax, wage, and benefit responsibilities. Amazon's inadequate workplace safety policies also pose grave risks to workers. In some cases, their workplace injury rates are more than 2.5 times the industry average. Last December, six Amazon workers died after they were required to continue working during unsafe weather conditions in a warehouse that did not have appropriate safety facilities or policies.

Mr. President: It is abundantly clear that time and time again Amazon has engaged in illegal anti-union activity. Amazon may be a large and profitable corporation, it may be owned by one of the wealthiest people in America, but it cannot be allowed to continue to violate the law and the rights of its employees. The time has come to tell Amazon that if it wants another federal contract, it must obey the law.

Since 2004, Amazon has received thousands of federal contracts worth billions of dollars. The Washington Post, also owned by Mr. Bezos, reported that Amazon is in line to receive a cloud contract from the National Security Agency worth up to $10 billion—a contract that it should not receive as long as it continues to violate labor laws. Another Bezos-owned company, Blue Origin, may also receive a contract from NASA worth up to $10 billion to fly a spaceship to the moon after more than 20 current and former employees alleged that this company repeatedly discriminated against workers and did not adhere to safety protocols.

Mr. President: Taxpayer dollars should not go to companies like Amazon and multi-billionaires like Jeff Bezos who repeatedly break the law.

And let's be clear, it is not just Amazon and Blue Origin. According to the U.S. Government Accountability Office, federal contractors were required to pay nearly $225 million in back wages to workers for Service Contract Act violations between 2014 and 2019. An investigation completed by the Senate Committee on Health, Education, Labor, and Pensions found that nearly 30 percent of the top 200 violators of workplace safety and wage theft were government contractors.

The federal government spends more than $600 billion each year on contracts to thousands of companies who employ more than 4 million contract workers. These workers, just like every worker in America, deserve fair pay and benefits, safe workplaces, and the right to a union.

I urge you to ban companies who break federal labor laws from receiving federal contracts.

Sincerely,

BERNARD SANDERS,
U.S. Senator.

Mr. SANDERS. Mr. President, President Biden, more than any other President I can recall, has talked over and over again about being pro-union. I appreciate very much what the President has said, and I know him to be absolutely sincere when he says it. But just this afternoon, in an article published in POLITICO, an article that dealt with my letter to the President, this is what the article said:

> A White House official said that the President ''has stated consistently and firmly that every worker in every state must have a free and fair choice to join a union and the right to bargain collectively with their employer.'' The official, who declined to be named, added that Biden believes ''there should be no intimidation, no coercion, no threats, and no anti-union propaganda from employers while workers are making that vitally important choice about a union.''

That is a statement from a White House spokesman this afternoon.

What I would say is that what this official said that President Biden doesn't want is precisely what is happening in Amazon right now. There is intimidation. There is coercion. There are threats and anti-union propaganda. In fact, what President Biden says should not be happening is precisely what is happening at Amazon.

Therefore, it is my view that the time for talk is over. The time for action is now. Taxpayer dollars should not go to companies like Amazon and multibillionaires like Jeff Bezos who repeatedly break the law. No government—not the Federal Government, not the State government, and not the city government—should be handing out corporate welfare to union busters and labor law violators.

Today, I say to President Biden: You promised to prevent union busters like Amazon from receiving lucrative contracts from the Federal Government. Keep that promise.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEMBERING ORRIN G. HATCH

Mr. LEE. Mr. President, Orrin G. Hatch will be remembered for many things. His 42 years of service in this body are marked by successes; historic and prolific legislation; and, of course, statesmanship. He served longer as a U.S. Senator than any other in the history of the State of Utah or in the history of the Republican Party.

At his retirement, he had passed more bills into law than any other legislator alive, an astounding 750. While the record of his service is remarkable and memorable, I invite the Senate and the Nation to remember Senator Orrin Hatch by the things that he remembered every day, here in the Senate and in his private life.

Every day upon entering his Senate office, Orrin Hatch would look upon a prominently hung painting depicting his Utah pioneer grandfather and great-grandfather as they were fording a stream on horseback. This image, like so much else in his life, was a reminder of Senator Hatch's pioneer legacy, his ancestry, and destiny.

In Utah, there is almost no more honorable title than that of pioneer. In the particular parlance of our State, a pioneer is not merely someone who goes where others haven't gone before. No, a pioneer looks toward the future without forgetting who he or she is. A pioneer, like those who settled the Salt Lake Valley and much of the western United States, does so not out of conquest or in search of glory; a pioneer goes and works out of duty and responsibility and faith.

Orrin Hatch always remembered his roots. Raised the son of a mechanical laborer, he grew up in a family of little means. Orrin was one of nine children raised in a cramped Depression-era home without indoor plumbing. Two of Orrin's siblings died young. Another, his older brother Jesse, gave the ultimate sacrifice as a turret gunner flying over Austria mere months before the Allied victory in Europe.

Orrin always remembered this example of work and sacrifice from his parents and from his brother Jesse. The sense of duty to God, family, and Nation was the primary driver throughout his life.

He served a 2-year mission for the Church of Jesus Christ of Latter-day Saints in Ohio. He became the first in his family to graduate from college, attending Brigham Young University. He met Elaine Hansen, and the couple married in 1957. They later returned to Pittsburgh, PA, and Orrin completed law school at the University of Pittsburgh School of Law, while living in what had previously served as a chicken coop in his parents' backyard. He worked as a metalworker and as a janitor to provide for his family while attending law school.

Never one to make much of a fuss about it, Orrin Hatch just did the work that was expected of him, and he did it remarkably well. He knew that life was not easy and that he couldn't expect handouts. He developed the reputation of a fighter, and while a dedicated friend with an inviting laugh, he would never forget the lessons he had learned young while in the amateur boxing ring.

After moving back to Utah and running a successful law practice in Salt Lake City, Orrin ran for the Senate to fight for the moral fiber and everyday work ethic of Americans that he felt was not being represented adequately in Washington, DC. He won, and he set out to defend family values and constitutional principles.

He would remember to do so throughout his career, pioneering the Hatch

Amendment, a proposed constitutional amendment that sought to correct the erroneous claim that there is a constitutional right to abortion, one that prohibits States from protecting unborn human life, and steadfastly advocating for a balanced budget amendment to the U.S. Constitution.

Orrin Hatch defended life, religious liberty, economic responsibility, and personal freedom throughout his entire service in the U.S. Senate. His 750 proposals that became law cover everything from welfare reform to regulatory restructuring, to laws adjusting the Federal judiciary, to hallmark tax cuts. Hatch's tenure in the Senate was marked by his chairmanship of the Health, Education, Labor, and Pensions Committee, the Committee on the Judiciary, and the Finance Committee, before serving as President Pro Tempore.

Senator Hatch helped rein in activist Federal judges and reformed the entire Federal judiciary, and has helped restore the true meaning of the Constitution as applied and interpreted by our courts.

Senator Hatch played a prime role in the nomination of every Supreme Court Justice for decades. He defended the Court and the honor of Justices serving and presenting themselves with different judicial philosophies.

Beyond his countless political accomplishments, Orrin Hatch was a dedicated father, grandfather, great-grandfather, and man of faith. He always remembered the most important things in life. He composed countless songs of praise and of patriotism. He served as a volunteer leader in his church congregations and in his communities. He founded the Orrin G. Hatch Foundation to carry on and remember his work and advocacy for collegiality and bipartisanship after his retirement from the Senate.

Orrin Hatch always remembered Utah. On weekends, you could find him at the grocery store, in his church congregation, rubbing elbows with people he knew and loved. He would talk about the politics of the day but also the news affecting communities and families he cared for. Those who knew him felt the care and the interest that he had.

After I had served as his Senate page, as a high school student, there were just a couple of photos on my wall as a teenager. One was of Karl Malone in his Utah Jazz jersey and another was a photo of me with Senator Orrin Hatch, one of my prized possessions.

Later, when I was serving as a missionary along the U.S.-Mexico border, on the Texas side, Senator Hatch sent me a note, along with a $10 check, suggesting that I use it to go get a good lunch. I cherished the note and never could cash the check. You see, the memory and the memento were worth so much more than the lunch it could buy. I still have that check. It is a prized possession.

Orrin Hatch also remembered to work. He would come to the Senate early and stay late. He would think years ahead and persistently, methodically, pursue his plans. He would take the time to build coalitions behind ideas and bring about needed reforms. Senator Hatch knew that the Senate was designed to be the cooling saucer, where ideas would steep and percolate, often over the course of years and even decades.

Yet Orrin always remembered the people behind the politics. He was a mentor and a friend to Senators from both sides of the aisle, and he built deep friendships with people of all political backgrounds. He cherished a friendship with Senator Ted Kennedy and called the late Justice Ruth Bader Ginsburg a dear friend.

He instilled his hallmark good humor and sense of duty on the newer Members of the Senate. I was one of them. He greeted and accepted me warmly—mentioning only a few times over the years the fact that I had, decades previously, served as his Senate page.

He was a force for collegiality and cooperation, and while he remained dedicated to the principles and people who brought him to the Senate, he would work with anyone and everyone to get the job done.

Orrin Hatch was a giant of the Senate and a veritable pillar in Utah. His influence, his hearty laugh, and powerful advice are missed by us here in the Senate and by millions in Utah. I know I speak for the entire Senate in sending our deepest condolences and warmest appreciation to Elaine and to their children—Brent, Marcia, Scott, Kimberly, Alysa, and Jess, as well as their grandchildren and great-grandchildren.

The gift of Senator Hatch's life of service has made our State and our Nation better.

As I said, there is perhaps no more noble title in Utah than that of pioneer. Orrin Hatch was a pioneer, through and through—not just the descendant of pioneers but a pioneer in his own right. He followed in the footsteps of his forebearers, and he left a legacy of dedication, of service, and of truth.

I commend his memory to the history of our Republic, in the words of a beloved hymn fittingly entitled ''They the Builders of the Nation.'' Here is how it goes:

They, the builders of the nation,
Blazing trails along the way;
Stepping-stones for generations
Were their deeds of every day.
Building new and firm foundations,
Pushing on the wild frontier,
Forging onward, ever onward,
Blessed, honored Pioneer!

I bid my friend Senator Orrin Hatch onward, ever onward. May we as a nation forever remember his legacy is my prayer.

The PRESIDING OFFICER (Mr. PETERS). The Senator from Tennessee.

BIDEN ADMINISTRATION

Mrs. BLACKBURN. Mr. President, from the second that they wake up in the morning to the moment they put their heads on the pillow at night, the American people are burning through cash. And, as I have spent the last 2 weeks talking with Tennesseans, talking with people in the real world, this is a sentiment that they continue to talk about.

Now, they know inflation is real. It wasn't temporary. It wasn't something that was just a problem for the rich. It is a problem that hits every single individual, and the spin that is coming out of the White House really is not resonating with hard-working taxpayers anymore.

When I am out and about in Tennessee, people are talking about inflation, the border, and the sense of despair that they see taking over their communities. And they cannot get over the lengths to which this White House and this administration have gone to try to convince them that everything is OK, you don't have anything to worry about, and things are better than they have ever been.

They can't believe it. They can't believe that this administration is living in the land of denial, because they know that this message doesn't add up with the reality of their lives, and they have spent 16 months digging themselves out from under massive gas and grocery bills. Every time they fill up the tank or they fill up the grocery cart, they know that it is probably more than 8 percent inflation. Every time they go to the hardware store, they see it. When they are buying a gallon of paint or fertilizer for their garden, they see it. And the few discretionary dollars they used to allow themselves for some new clothes or the occasional food delivery now go to essentials, and, even then, they still are making tough choices. As I said, from the second they wake up in the morning to the moment their heads hit the pillow at night, the American people are burning through cash almost as fast as Joe Biden and the Democrats are burning through our taxpayer dollars.

The Biden administration might not take this seriously. They may say: We will just go print more money.

Look at the amount of debt they have run up. Tennesseans do take this issue seriously, and at this point, they laugh at the alternate reality coming from DC, and they know that the ''Putin price hike'' is something that is so divorced from reality.

It wasn't enough for Joe Biden to abandon his responsibilities. He had to take the extra step of exploiting the more than 2,500 innocent civilians Vladimir Putin has murdered in Ukraine. It is just disgusting. But that is the Democrats' playbook—isn't it?—never let a crisis go to waste; pick up words that you can use in your spin.

If the White House had stopped to think about what American taxpayers do when they are broke, when they have gotten to the end of their money before they get to the end of their month, when they have debt rolling

over them, then the White House might have realized that now is not the time to spend more money on programs that the taxpayers do not want.

Now, every Tennessean who has good common sense—we have got hundreds of thousands of them—they know that nobody would commit to a self-destructive agenda just because they thought they could force somebody else to go pick up the tab and pay for it.

It doesn't make sense, but that is what this administration is doing, and I think this is one of those things that, in their playbook, they think sounds great. But with the American people, this is going to backfire.

And through all of this, the President has shown the people who he is and what priorities really matter to him. Instead of exercising some much needed self-control, he decided to beg for the Green New Deal, wasteful social spending, and an election takeover. His allies in Congress have even come back to Washington ready to make a deal with the devil to resurrect his ''Build Back Broke'' agenda.

In the interest of bipartisanship, I would like to offer some thoughts to my Democratic colleagues. Next time that you go home, go over to the grocery store and ask a busy mom who is holding a shopping list in one hand and digital coupons on her phone in the other just how they are managing through this inflation crisis.

Ask them: Do you think it is stuck at 8 percent inflation? Do you think it is closer to 15 percent inflation?

Then, follow their advice, because I can guarantee you that they will choose to give you an earful. They are about fed up.

There are thousands of moms and grandmoms who know what they are doing, and, more importantly, they know how they are going to spend every single penny that they have itemized in their budget for groceries, for gas, for the summer garden. They know how they are going to spend that money.

They wish Washington would be as careful with taxpayer money as they are being with their hard-earned dollars.

It really makes them shake their heads when they hear that the caretakers of the most powerful Nation in the world have no vision for the future and no plan for how to get us to a vision.

All that this administration and the White House and the Democrats—who, by the way, are in charge of all the government here in Washington, DC—all they have is an agenda. They have got a to-do list. They are wanting to check the boxes, and that agenda is heavy on spending and light on everything else that matters to the American people.

And, by the way, all that heavy spending is not Federal Government money, mind you. It is money that is coming out of the pockets of hard-working taxpayers—every penny of it.

We know border security isn't on the Biden administration's list of priorities. It is not on the to-do list. It is not on the thinking-about-it list.

In the alternate reality that this White House is operating in, the only immigration policy that matters is guaranteeing an open border—the sooner they can get it, the better. They are all about it. We all know how well that policy has worked out so far.

On behalf of a lot of Tennesseans back home, I would like to inject a little reality into this conversation also.

Since day one of this administration, Joe Biden has done everything in his power to sabotage the Border Patrol and local law enforcement officials. His open borders rhetoric invited massive caravans of migrants to overwhelm the border. And just when we thought things couldn't get worse, he turned his back on President Trump's successful ''Remain in Mexico'' program. As a result, last month, encounters along our southern border were up 33 percent. That is right—up 33 percent in 1 month.

CBP regularly seizes millions of dollars' worth of meth, fentanyl, and heroin that would have otherwise landed in ''Small Town, USA.'' And, now, President Biden wants to abandon title 42, which is the last best defense we have against this wave of illegal immigration. We already know that if he goes through with this, he will lose control of the border to the cartels.

The Border Patrol estimates that 18,000 people a day will try to make it across the border. Now, currently, there are 6,000 people a day. Those are record numbers. Think of what is going to happen if 18,000 people a day are rushing our southern border.

Now, let me give you a little perspective on this. Tennessee has 345 towns and cities. So we checked to see how many of these towns and cities are 18,000 people or less. Well, 90 percent of the towns and cities in the State of Tennessee are 18,000 people—18,000 residents or fewer than that.

Now, think about that. It is like a Tennessee town—that number of people coming across the border every day.

I would think that, you know, that it is the same thing, Mr. President, in Michigan. I don't know the number of towns and cities you have, but I would imagine that the majority of those are there also, 18,000 or fewer residents.

Think about this impact. How many days can you do that? How many weeks? How many years before you completely disrupt what is going on in your towns, in your State?

I have to ask you: What is so compassionate about subjecting 18,000 people a day—18,000—to the risk of exploitation by a drug cartel? And what is so compassionate about standing by while 18,000 people a day risk death by exposure in the desert? Is sticking to your talking points worth the lives of National Guardsmen like Bishop Evans, who drowned last week while trying to rescue migrants crossing the Rio Grande River?

The decision to abandon title 42 is dangerous, and, frankly, anyone who supports it should be ashamed of themselves.

Last month, I joined several of my colleagues on a letter to Chairman DURBIN, asking him to allow the Judiciary Committee to get some answers about how the administration plans to deal with this. The committee must use its oversight authority to summon Secretary Mayorkas for a hearing so he can explain his plan to prevent chaos on the border.

If that plan exists, we don't know about it. But, certainly, tripling the number of people per day at the southern border is going to create a chaotic situation.

I want to make it clear that this use of our oversight authority is the bare minimum, and, as of now, Chairman DURBIN has not indicated that he is willing to meet this very minimum bar.

We must not allow the administration to hide behind their title 42 talking points. The American people won't stand for it because they know that until Joe Biden secures the border, until he puts back in place the ''Remain in Mexico'' policy, until he keeps title 42, every town will be a border town and every State will be a border State.

When I am in Tennessee and talking with Tennesseans, what we know is that they are like a lot of people all across this country. They don't trust their government to have their interests at heart. They don't take the actions of their government seriously because in the Democratic-controlled government—all branches here in DC—they don't seem to take their jobs seriously. They are certainly not looking out for the American people. They are not taking actions that are going to reduce the cost of a gallon of gas at the pump or the cost of food at the grocery store or the cost of paint, the cost of fertilizer, the cost of tools—the list goes on and on.

But what they do believe is that it is time for this administration to make inflation, to make border security, to make the sovereignty of this Nation a priority and to begin to build a vision for this Nation, not just a to-do list.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Ms. HASSAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Ms. HASSAN. Mr. President, I ask unanimous consent to withdraw the cloture motion with respect to the Gomez nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

MORNING BUSINESS

Ms. HASSAN. Mr. President, I ask unanimous consent that the Senate proceed to legislative session and be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE EXPLANATION

Mr. PETERS. Mr. President, while returning with Senate colleagues from a delegation trip to Europe to further strengthen the trans-Atlantic alliance in the context of Vladimir Putin's war against the Ukrainian people, our plane was grounded by mechanical failure. As a result, I was unable to attend vote No. 135 on the motion to invoke cloture on Executive Calendar No. 808, Lael Brainard, of the District of Columbia, to be Vice Chairman of the Board of Governors of the Federal Reserve System.

I would have voted yea on the motion to invoke cloture had I been able to attend the vote.

While returning with Senate colleagues from a delegation trip to Europe to further strengthen the trans-Atlantic alliance in the context of Vladimir Putin's war against the Ukrainian people, our plane was grounded by mechanical failure. As a result, I was unable to attend today's vote on No. 136 on confirmation of Executive Calendar No. 808, Lael Brainard, of the District of Columbia, to Vice Chairman of the Board of Governors of the Federal Reserve System.

I would have voted yea on the confirmation had I been able to attend the vote.

REMEMBERING DR. JON WEFALD

Mr. MARSHALL. Mr. President, I rise today to memorialize and honor one of my great friends and mentor, our former Kansas State University President Dr. Jon Wefald who passed away on April 16 after a long and illustrious life serving higher education and the State of Kansas. His work at K-State brought the university to great heights, and his realized dreams will live on forever in K-State lore.

My wife and I first met Dr. Wefald at a student recruitment dinner in Great Bend we were cohosting, where his energy was contagious and palpable. He was a young university president with a vision and a purpose we all wanted to be part of. He made every student in the room know they were each important, and K-State would help them realize their dreams. We remained friends up until the time of his passing with regular communications and advice. I will miss him.

Dr. Wefald served as K-State's 12th president from 1986 to 2009 and is credited with growing the university into a top 10 land-grant university. During his 23 years of leadership, the university added 2.2 million square feet of new buildings. He also helped philanthropy increase from $6 million a year to nearly $100 million annually.

Under his leadership, K-State quickly became one of the Nation's distinguished research and doctoral universities. Enrollment increased from 16,000 students to more than 23,000 under his tenure, and with the growth in students came a monumental growth in research funding from $18 million annually to nearly $134 million. Both of these increases have led to astounding innovations from all parts of the university. Last, but not least of his achievements, Dr. Wefald was also in charge of hiring the iconic football coach Bill Snyder, which led to the greatest turnaround in NCAA sports history.

We all mourn the loss of this beloved K-State president who shaped countless students' and faculty members' lives. His leadership, passion, and dedication to K-State and the great State of Kansas will never be forgotten. My thoughts and prayers go out to his family, friends, and K-State family. I ask my colleagues to join me in recognizing the wonderful career and life of Mr. Jon Wefald. A true inspiration to the State of Kansas, fighting ever fighting for a wildcat victory.

TRIBUTE TO JERRY FARLEY

Mr. MARSHALL. Mr. President, I rise today to honor and recognize Jerry Farley, the president of Washburn University. Dr. Farley announced his plans to retire and transition to a president emeritus role, where he and his signature bow tie will remain a part of fundraising and international student recruitment.

Farley was born in Oklahoma, but moved to Topeka in 1997 after spending 25 years in various administrative roles in Oklahoma, including the role of vice president at Oklahoma University. On July 1, 1997, Farley became Washburn University's 16th president. During his leadership, Farley's vision to change Washburn from a commuter school to one that prioritized campus life has become a reality. With his wife Susan serving by his side through the years, they have helped influence and nurture student to work hard and leave the university as leaders.

During his tenure, Washburn University added several buildings to its campus, including the $20 million Living Learning Center residential hall, as well as the addition of Washburn Tech, the Kansas Bureau of Investigation Laboratory, and a statue honoring one of the Ichobods' favorite sons, the late great Senator Bob Dole.

In addition to his hard work and dedication to help build the reputation of the University, Dr. Farley always did an outstanding job of representing the State of Kansas and Washburn University as a whole. His leadership does not go unnoticed. As we celebrate his legacy, I ask my colleagues to join me in recognizing the wonderful career of Dr. Jerry Farley and wish him and Susan nothing but joy and happiness in his next chapter of life.

TRIBUTE TO CALEB SMITH

Mr. MARSHALL. Mr. President, I rise today to honor and recognize Caleb Smith of Newton, KS. Caleb is the recipient of the 2021–2022 Kansas principal of the year.

Caleb has shown outstanding leadership at Newton High School in order to earn this award. His passion for the students, working with the staff, and creative ideas to enhance technology at the school all contributed to this great success. Caleb found out about this honor Monday, April 11, following a school scavenger hunt where he walked all over the campus to find his students presenting the award to him. Superintendent Fred Van Ranken celebrated Caleb saying, ''Mr. Smith has done an outstanding job of trying to create an amazing culture at Newton High School and within the Newton communities, and it shows. I am so happy for Caleb to be recognized at the state level for what he and his team are doing at USD 373.''

This is an honor that Caleb should be immensely proud of. After reading through countless quotes from fellow teachers and Newton students, it is clear that Caleb has a true passion—and immense talent—for teaching our future leaders. This award is a testament to all of his hard work in providing outstanding education for all students that walk through his classroom. I am ecstatic to hear about the impact this great Kansan is having on our future generations. I ask my colleagues to join me in recognizing Caleb Smith of Newton, KS.

ADDITIONAL STATEMENTS

TRIBUTE TO FARHAT QAZI

● Ms. STABENOW. Mr. President, I rise today to honor a Michigander who is working every day to build bridges and bring people together at a very important time for our country and our world.

Farhat Qazi of West Bloomfield is an entrepreneur and a philanthropist. She is also a woman of deep faith who believes that religion can be a powerful force for peace and unity in the world.

In pursuit of this noble goal, Qazi created Children of Abraham Day, which was recognized in Michigan on December 4, 2020. The day is an opportunity for Jews, Muslims, and Christians to celebrate their shared origins as descendants of the Prophet Abraham; their reverence for the city of Jerusalem; and their common beliefs in love, charity, and moral behavior.

Far too often throughout history, religious differences have led to strife,

conflict, and war. By focusing on shared backgrounds and beliefs—and rededicating ourselves to religious understanding and tolerance—Qazi believes that people of diverse faiths can build a stronger, more peaceful, and more prosperous world. I couldn't agree with her more.

''I believe teaching our children the common origins and shared heritage of the Abrahamic faiths is key to future global unity, peace, and harmony,'' said Qazi. ''Children of Abraham Day is about showing how we can come together, celebrate, and appreciate a common bond.''

Farhat Qazi's belief in the power of Children of Abraham Day—and her tireless work to bring people of diverse religions together—deserves to be commended. It is my hope and prayer that this seed of understanding she has planted will continue to blossom and grow.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Swann, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

In executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Foreign Relations.

(The message received today is printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 2:27 p.m., a message from the House of Representatives delivered by Mrs. Alli, one of its reading clerks, announced that pursuant to 20 U.S.C. 4303, and the order of the House of January 4, 2021, the Speaker appoints the following members of the House of Representatives to the Board of Trustees of Gallaudet University: Ms. MCCOLLUM of Minnesota and Mr. BUCSHON of Indiana.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 4088. A bill to prohibit the Secretary of Health and Human Services from lessening the stringency of, and to prohibit the Secretary of Homeland Security from ceasing or lessening implementation of, the COVID–19 border health provisions through the end of the COVID–19 pandemic, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3712. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled ''OMB Sequestration Report to Congress for Fiscal Year 2023''; to the Special Committee on Aging; Agriculture, Nutrition, and Forestry; Appropriations; Armed Services; Banking, Housing, and Urban Affairs; the Budget; Commerce, Science, and Transportation; Energy and Natural Resources; Environment and Public Works; Select Committee on Ethics; Finance; Foreign Relations; Health, Education, Labor, and Pensions; Homeland Security and Governmental Affairs; Indian Affairs; Select Committee on Intelligence; Joint Committee on Taxation; the Judiciary; Rules and Administration; Small Business and Entrepreneurship; and Veterans' Affairs.

EC–3713. A communication from the President of the United States, transmitting, pursuant to law, the Budget of the United States Government for Fiscal Year 2023; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986; to the Committees on the Budget; and Appropriations.

EC–3714. A communication from the President of the United States, transmitting, pursuant to law, the Economic Report of the President together with the annual report of the Council of Economic Advisors; to the Joint Economic Committee.

EC–3715. A communication from the Assistant to the Director of the Office of Regulatory Affairs and Collaborative Action, Bureau of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Civil Penalties Inflation Adjustments; Annual Adjustments'' (RIN1076–AF70) received in the Office of the President of the Senate on April 25, 2022; to the Committee on Indian Affairs.

EC–3716. A communication from the Associate Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Bacillus subtilis strain AFS032321; Exemption from the Requirement of a Tolerance'' (FRL No. 8920–01–OCSPP) received in the Office of the President of the Senate on April 25, 2022; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3717. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''National Organic Program; Origin of Livestock'' ((RIN0581–AD89) (Docket No. AMS–NOP–11–0009)) received in the Office of the President of the Senate on April 25, 2022; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3718. A communication from the Alternate Federal Register Liaison Officer, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement: New Qualifying County-Lithuania (DFARS Case 2022–D012)'' (RIN0750–AL48) received in the Office of the President of the Senate on April 25, 2022; to the Committee on Armed Services.

EC–3719. A communication from the Alternate Federal Register Liaison Officer, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement: Evaluation Factor for Employing or Subcontracting with Members of the Selected Reserve (DFARS Case 2021–D013)'' (RIN0750–AL48) received in the Office of the President of the Senate on April 25, 2022; to the Committee on Armed Services.

EC–3720. A communication from the Alternate Federal Register Liaison Officer, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement: Postaward Debriefings (DFARS Case 2018–D009)'' (RIN0750–AJ73) received in the Office of the President of the Senate on April 25, 2022; to the Committee on Armed Services.

EC–3721. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report entitled ''Department of Defense Annual Report on Audit for Fiscal Year 2021''; to the Committee on Armed Services.

EC–3722. A communication from the President of the United States, transmitting, pursuant to law, a report of the continuation of the national emergency with respect to specified harmful activities of the Government of the Russian Federation that was originally declared in Executive Order 14024 of April 15, 2021; to the Committee on Banking, Housing, and Urban Affairs.

EC–3723. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency that was declared in Executive Order 14024 with respect to specified harmful foreign activities of the Government of the Russian Federation; to the Committee on Banking, Housing, and Urban Affairs.

EC–3724. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency that was declared in Executive Order 13611 with respect to Yemen; to the Committee on Banking, Housing, and Urban Affairs.

EC–3725. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency that was declared in Executive Order 14024 with respect to the Central African Republic; to the Committee on Banking, Housing, and Urban Affairs.

EC–3726. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency that was declared in Executive Order 13338 with respect to Syria; to the Committee on Banking, Housing, and Urban Affairs.

EC–3727. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''National Flood Insurance Program: Removal of Best's Financial Size Category From Write-Your-Own Participation Criteria'' (RIN1660–AB13) received in the Office of the President of the Senate on April 25, 2022; to the Committee on Banking, Housing, and Urban Affairs.

EC–3728. A communication from the Congressional Affairs Director, Export-Import Bank of the United States, transmitting, pursuant to law, the report of a vacancy in the position of First Vice President, Export-Import Bank of the United States, received in the Office of the President of the Senate on April 6, 2022; to the Committee on Banking, Housing, and Urban Affairs.

EC–3729. A communication from the Federal Register Liaison Officer, Bureau of Safety and Environmental Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Oil and Gas and Sulfur Operations in the Outer Continental Shelf—Adjustment of Service Fees'' (RIN1014–AA54) received in the Office of the President of the Senate on April 25, 2022; to the Committee on Energy and Natural Resources.

EC–3730. A communication from the Associate Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the

report of a rule entitled ''Air Plan Approval; Wisconsin; Redesignation of the Wisconsin Portion of the Chicago-Naperville, Illinois-Indiana-Wisconsin Area to Attainment of the 2008 Ozone Standard'' (FRL No. 9523–02–R5) received in the Office of the President of the Senate on April 25, 2022; to the Committee on Environment and Public Works.

EC–3731. A communication from the Associate Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Air Plan Approval; Montana; 2015 Ozone NAAQS Interstate Transport Requirements'' (FRL No. 9299–02–R8) received in the Office of the President of the Senate on April 25, 2022; to the Committee on Environment and Public Works.

EC–3732. A communication from the Associate Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Addition of 1-Bromopropane to the list of CERCLA Hazardous Substances; List of Hazardous Substances; Technical Corrections'' (FRL No. 9335–01–OLEM) received in the Office of the President of the Senate on April 25, 2022; to the Committee on Environment and Public Works.

EC–3733. A communication from the Director of the Legal Processing Division, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Announcement and Report Concerning Advance Pricing Agreements'' (Announcement 2022–7) received in the Office of the President of the Senate on April 25, 2022; to the Committee on Finance.

EC–3734. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2022–0052—2022–0069); to the Committee on Foreign Relations.

EC–3735. A communication from the Senior Bureau Official, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to emigration laws and policies of Azerbaijan, Kazakhstan, Tajikistan, and Uzbekistan; to the Committee on Foreign Relations.

EC–3736. A communication from the Senior Bureau Official, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to U.S. compliance with the authorization for use of military force in Iraq; to the Committee on Foreign Relations.

EC–3737. A communication from the Senior Bureau Official, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to U.S. compliance with the authorization for use of military force in Iraq; to the Committee on Foreign Relations.

EC–3738. A communication from the Senior Bureau Official, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to data mining activities by Federal Agencies; to the Committee on Foreign Relations.

EC–3739. A communication from the Senior Bureau Official, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to Iran-related multilateral sanctions regime efforts; to the Committee on Foreign Relations.

EC–3740. A communication from the Senior Bureau Official, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to observer status for Taiwan at the summit of the World Health Organization; to the Committee on Foreign Relations.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. REED for the Committee on Armed Services.

Space Force nomination of Brig. Gen. Douglas A. Schiess, to be Major General.

Space Force nomination of Brig. Gen. Douglas A. Schiess, to be Brigadier General.

Air Force nominations beginning with Col. Christopher M. Blomquist and ending with Col. Todd A. Wiles, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2022. (minus 2 nominees: Col. Daniel R. Fowler; Col. Michael E. Lockette)

Air Force nominations beginning with Col. Kirsten G. Aguilar and ending with Col. Michael J. Zuhlsdorf, which nominations were received by the Senate and appeared in the Congressional Record on February 28, 2022. (minus 2 nominees: Col. David C. Epperson; Col. Brian R. Moore)

Air Force nomination of Brig. Gen. Rebecca R. Vernon, to be Major General.

*Army nomination of Lt. Gen. Randy A. George, to be General.

*Army nomination of Lt. Gen. Andrew P. Poppas, to be General.

*Army nomination of Maj. Gen. Sean C. Bernabe, to be Lieutenant General.

*Air Force nomination of Lt. Gen. Duke Z. Richardson, to be General.

*Air Force nomination of Lt. Gen. Mary F. O'Brien, to be Lieutenant General.

*Air Force nomination of Lt. Gen. Brian S. Robinson, to be Lieutenant General.

*Air Force nomination of Maj. Gen. Randall Reed, to be Lieutenant General.

*Air Force nomination of Lt. Gen. David S. Nahom, to be Lieutenant General.

*Air Force nomination of Lt. Gen. Tom D. Miller, to be Lieutenant General.

Air Force nomination of Col. Amy D. Holbeck, to be Brigadier General.

Air Force nomination of Col. David N. Unruh, to be Brigadier General.

*Marine Corps nomination of Maj. Gen. Dimitri Henry, to be Lieutenant General.

Mr. REED. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators .

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nominations beginning with Michael A. Armstrong and ending with John S. Wu, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2022.

Air Force nominations beginning with Jonathan P. Dietz and ending with Jordan C. Tremblay, which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2022.

Air Force nominations beginning with Alan K. Chan and ending with Benjamin R. Pereus, which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2022.

Air Force nomination of Alec S. Williams, to be Major.

Army nomination of Derwin Brayboy, to be Colonel.

Army nominations beginning with Yonatan S. Abebie and ending with D011475, which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2022.

Army nominations beginning with David H. Aamidor and ending with D016442, which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2022.

Army nominations beginning with Michael S. Abbott and ending with D015907, which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2022.

Army nominations beginning with Rachell H. Baca and ending with D014087, which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2022.

Army nomination of Charles J. Bulva, to be Lieutenant Colonel.

Army nomination of David L. Armeson, to be Lieutenant Colonel.

Marine Corps nominations beginning with Jeremy D. Adams and ending with Jonathan S. Zasadny, which nominations were received by the Senate and appeared in the Congressional Record on December 1, 2021.

Marine Corps nomination of Jon C. Peterson, to be Lieutenant Colonel.

Marine Corps nomination of Andrew E. Cheatum, to be Lieutenant Colonel.

Marine Corps nomination of Christopher J. Voss, to be Major.

Marine Corps nominations beginning with Dustin E. Guerpo and ending with Steven A. Scott, which nominations were received by the Senate and appeared in the Congressional Record on January 5, 2022.

Navy nominations beginning with Joseph L. Campbell and ending with David J. Woods, which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2022.

Space Force nominations beginning with Matthew B. Christensen and ending with David A. Heinz, which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2022

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. BALDWIN:

S. 4081. A bill to amend the Consolidated Farm and Rural Development Act to establish a grant program to assist with the purchase, installation, and maintenance of point-of-entry and point-of-use drinking water quality improvement products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BOOZMAN (for himself, Mr. TILLIS, Mr. RUBIO, Mr. CORNYN, Mr. INHOFE, Mr. DAINES, Mr. THUNE, Mrs. HYDE-SMITH, Mrs. FISCHER, Mr. COTTON, Mr. HAGERTY, and Ms. ERNST):

S. 4082. A bill to prohibit the use by the Department of Veterans Affairs of funds to provide emergency assistance at the southern border of the United States resulting from the repeal of certain public health orders, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HEINRICH (for himself, Mr. BENNET, Mr. MERKLEY, Mr. LUJÁN,

Mr. BOOKER, Mr. WYDEN, and Mr. MARKEY):

S. 4083. A bill to modify the requirements applicable to locatable minerals on public domain land, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LUJÁN (for himself and Mrs. BLACKBURN):

S. 4084. A bill to support the lab-embedded entrepreneurship program under the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. DUCKWORTH (for herself, Mrs. FEINSTEIN, Mr. WHITEHOUSE, Ms. HIRONO, Mr. BLUMENTHAL, Mr. BENNET, Mr. BROWN, Mr. MURPHY, Ms. SMITH, Mr. VAN HOLLEN, Mr. WYDEN, Mr. CASEY, and Mr. MARKEY):

S. 4085. A bill to amend the National Voter Registration Act of 1993 to require each State to implement a process under which individuals who are 16 years of age may apply to register to vote in elections for Federal office in the State, to direct the Election Assistance Commission to make grants to States to increase the involvement of minors in public election activities, and for other purposes; to the Committee on Rules and Administration.

By Ms. ROSEN (for herself and Mr. SCOTT of South Carolina):

S. 4086. A bill to amend the Employee Retirement Income Security Act of 1974 to better enable plan sponsors to implement beneficial plan features; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. MURRAY (for herself, Ms. SMITH, and Ms. BALDWIN):

S. 4087. A bill to require pension plans that offer participants and beneficiaries the option of receiving lifetime annuity payments as lump sum payments, to meet certain notice and disclosure requirements; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CRUZ:

S. 4088. A bill to prohibit the Secretary of Health and Human Services from lessening the stringency of, and to prohibit the Secretary of Homeland Security from ceasing or lessening implementation of, the COVID–19 border health provisions through the end of the COVID–19 pandemic, and for other purposes; read the first time.

By Mr. DURBIN:

S. 4089. A bill to restore entitlement to educational assistance under Veterans Rapid Retraining Program in cases of a closure of an educational institution or a disapproval of a program of education, and for other purposes; considered and passed.

By Mr. DURBIN (for himself and Mr. BRAUN):

S. 4090. A bill to improve transparency and availability of information regarding dietary supplements by amending the Federal Food, Drug, and Cosmetic Act to require manufacturers of dietary supplements to list dietary supplements with the Food and Drug Administration; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MANCHIN (for himself, Mr. WICKER, Mr. CASEY, Mrs. CAPITO, Mr. HEINRICH, and Mr. GRASSLEY):

S. Res. 595. A resolution designating the week of April 18 through April 24, 2022, as ''National Osteopathic Medicine Week''; considered and agreed to.

ADDITIONAL COSPONSORS

S. 201

At the request of Ms. ROSEN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 201, a bill to establish a program ensuring access to accredited continuing medical education for primary care physicians and other health care providers at Federally-qualified health centers and rural health clinics, to provide training and clinical support for primary care providers to practice at their full scope and improve access to care for patients in underserved areas.

S. 511

At the request of Mr. DURBIN, the name of the Senator from Illinois (Ms. DUCKWORTH) was added as a cosponsor of S. 511, a bill to establish the Bronzeville-Black Metropolis National Heritage Area in the State of Illinois, and for other purposes.

S. 777

At the request of Mr. MARSHALL, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 777, a bill to prohibit taxpayer-funded gender reassignment medical interventions, and for other purposes.

S. 778

At the request of Mr. MARSHALL, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 778, a bill to amend chapter 110 of title 18, United States Code, to prohibit gender reassignment medical interventions on minors, and for other purposes.

S. 1158

At the request of Mr. SCHATZ, the name of the Senator from Massachusetts (Ms. WARREN) was added as a cosponsor of S. 1158, a bill to provide paid family and medical leave to Federal employees, and for other purposes.

S. 1280

At the request of Mrs. MURRAY, the name of the Senator from Colorado (Mr. HICKENLOOPER) was added as a cosponsor of S. 1280, a bill to improve the reproductive assistance provided by the Department of Defense and the Department of Veterans Affairs to certain members of the Armed Forces, veterans, and their spouses or partners, and for other purposes.

S. 1315

At the request of Ms. CANTWELL, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1315, a bill to amend title XVIII of the Social Security Act to provide for coverage of certain lymphedema compression treatment items under the Medicare program.

S. 1467

At the request of Mr. SULLIVAN, the name of the Senator from Indiana (Mr. YOUNG) was added as a cosponsor of S. 1467, a bill to direct the Secretary of Veterans Affairs to carry out a series of clinical trials on the effects of cannabis on certain health outcomes of veterans with chronic pain and post-traumatic stress disorder, and for other purposes.

S. 1489

At the request of Mr. MENENDEZ, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. 1489, a bill to amend the Inspector General Act of 1978 to establish an Inspector General of the Office of the United States Trade Representative, and for other purposes.

S. 1801

At the request of Mr. LEAHY, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1801, a bill to amend section 923 of title 18, United States Code, to require an electronic, searchable database of the importation, production, shipment, receipt, sale, or other disposition of firearms.

S. 1888

At the request of Mr. BOOKER, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 1888, a bill to amend title 5, United States Code, to include certain Federal positions within the definition of law enforcement officer for retirement purposes, and for other purposes.

S. 1937

At the request of Mr. BOOKER, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1937, a bill to require the Secretary of Veterans Affairs to establish a pilot program to furnish doula services to veterans.

S. 1977

At the request of Mr. CASEY, the name of the Senator from Massachusetts (Ms. WARREN) was added as a cosponsor of S. 1977, a bill to amend title XIX of the Social Security Act to provide Medicaid coverage for all pregnant and postpartum women, to provide coverage under the Medicaid program for services provided by doulas, midwives, and lactation consultants, and for other purposes.

S. 2013

At the request of Mr. CASEY, the name of the Senator from Michigan (Mr. PETERS) was added as a cosponsor of S. 2013, a bill to provide for the coverage of medically necessary food and vitamins and individual amino acids for digestive and inherited metabolic disorder under Federal health programs and private health insurance, to ensure State and Federal protection for existing coverage, and for other purposes.

S. 2037

At the request of Ms. CORTEZ MASTO, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 2037, a bill to amend title XVIII to strengthen ambulance services furnished under part B of the Medicare program.

S. 2326

At the request of Mr. LUJÁN, the name of the Senator from Massachusetts (Ms. WARREN) was added as a cosponsor of S. 2326, a bill to amend the Indian Child Protection and Family Violence Prevention Act to reauthorize

programs under that Act, and for other purposes.

S. 2408

At the request of Mr. DAINES, the names of the Senator from Nebraska (Mrs. FISCHER), the Senator from Ohio (Mr. PORTMAN) and the Senator from Florida (Mr. SCOTT) were added as cosponsors of S. 2408, a bill to prohibit the award of Federal funds to an institution of higher education that hosts or is affiliated with a student-based service site that provides abortion drugs or abortions to students of the institution or to employees of the institution or site, and for other purposes.

S. 2700

At the request of Ms. ROSEN, the name of the Senator from New Hampshire (Ms. HASSAN) was added as a cosponsor of S. 2700, a bill to require the Secretary of Health and Human Services to improve the detection, prevention, and treatment of mental health issues among public safety officers, and for other purposes.

S. 2937

At the request of Mr. CARDIN, the name of the Senator from Hawaii (Mr. SCHATZ) was added as a cosponsor of S. 2937, a bill to authorize humanitarian assistance and civil society support, promote democracy and human rights, and impose targeted sanctions with respect to human rights abuses in Burma, and for other purposes.

S. 3080

At the request of Ms. SMITH, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 3080, a bill to amend the Employee Retirement Income Security Act of 1974 to require a group health plan (or health insurance coverage offered in connection with such a plan) to provide for cost-sharing for oral anticancer drugs on terms no less favorable than the cost-sharing provided for anticancer medications administered by a health care provider.

S. 3173

At the request of Mr. KENNEDY, the name of the Senator from Louisiana (Mr. CASSIDY) was added as a cosponsor of S. 3173, a bill to amend the Internal Revenue Code of 1986 to provide special rules for personal casualty losses arising from major disasters.

S. 3235

At the request of Mr. MENENDEZ, the name of the Senator from Nevada (Ms. CORTEZ MASTO) was added as a cosponsor of S. 3235, a bill to apply the Truth in Lending Act to small business financing, and for other purposes.

S. 3384

At the request of Mr. BOOKER, the name of the Senator from Maryland (Mr. VAN HOLLEN) was added as a cosponsor of S. 3384, a bill to establish in the Department of State the Office to Monitor and Combat Islamophobia, and for other purposes.

S. 3397

At the request of Ms. ROSEN, the name of the Senator from Colorado (Mr. HICKENLOOPER) was added as a cosponsor of S. 3397, a bill to direct the Secretary of Veterans Affairs to establish the Zero Suicide Initiative pilot program of the Department of Veterans Affairs.

S. 3412

At the request of Mr. THUNE, the name of the Senator from North Carolina (Mr. TILLIS) was added as a cosponsor of S. 3412, a bill to prohibit the use of Federal funds to enforce the rule submitted by the Department of Health and Human Services relating to COVID–19 vaccine and mask requirements for Head Start programs.

S. 3448

At the request of Mr. WARNOCK, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 3448, a bill to award a Congressional Gold Medal to the Freedom Riders, collectively, in recognition of their unique contribution to Civil Rights, which inspired a revolutionary movement for equality in interstate travel.

S. 3518

At the request of Mr. SCHATZ, the name of the Senator from New Mexico (Mr. LUJÁN) was added as a cosponsor of S. 3518, a bill to increase the rates of pay under the statutory pay systems and for prevailing rate employees by 5.1 percent, and for other purposes.

S. 3531

At the request of Mr. COONS, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 3531, a bill to require the Federal Government to produce a national climate adaptation and resilience strategy, and for other purposes.

S. 3609

At the request of Mr. KELLY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 3609, a bill to amend the Internal Revenue Code of 1986 to provide a gasoline tax holiday.

S. 3700

At the request of Mr. WARNOCK, the names of the Senator from New Mexico (Mr. LUJÁN) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 3700, a bill to provide for appropriate cost-sharing for insulin products covered under Medicare part D and private health plans.

S. 3766

At the request of Mr. BROWN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 3766, a bill to increase the benefits guaranteed in connection with certain pension plans, and for other purposes.

S. 3915

At the request of Mr. BARRASSO, the name of the Senator from Alaska (Mr. SULLIVAN) was added as a cosponsor of S. 3915, a bill to require the Secretary of Energy to provide technology grants to strengthen domestic mining education, and for other purposes.

S. 3950

At the request of Mr. DURBIN, the name of the Senator from Nevada (Ms. ROSEN) was added as a cosponsor of S. 3950, a bill to establish the Baltic Security and Economic Enhancement Initiative for the purpose of increasing security and economic ties with the Baltic countries and to establish the Baltic Security Initiative for the purpose of deepening security cooperation with the Baltic countries, and for other purposes.

S. 4042

At the request of Mr. BLUMENTHAL, the names of the Senator from North Dakota (Mr. HOEVEN) and the Senator from Montana (Mr. DAINES) were added as cosponsors of S. 4042, a bill to amend title XVIII of the Social Security Act to provide Medicare coverage for all physicians' services furnished by doctors of chiropractic within the scope of their license, and for other purposes.

S.J. RES. 39

At the request of Mr. THUNE, the name of the Senator from North Carolina (Mr. TILLIS) was added as a cosponsor of S.J. Res. 39, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Health and Human Services relating to ''Vaccine and Mask Requirements To Mitigate the Spread of COVID–19 in Head Start Programs.

S.J. RES. 41

At the request of Mr. RUBIO, the name of the Senator from Indiana (Mr. YOUNG) was added as a cosponsor of S.J. Res. 41, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Health and Human Services relating to ''Ensuring Access to Equitable, Affordable, Client-Centered, Quality Family Planning Services''.

S.J. RES. 43

At the request of Mrs. HYDE-SMITH, the names of the Senator from Indiana (Mr. YOUNG) and the Senator from North Dakota (Mr. CRAMER) were added as cosponsors of S.J. Res. 43, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of the Treasury and the Centers for Medicare & Medicaid Services relating to ''Patient Protection and Affordable Care Act; Updating Payment Parameters, Section 1332 Waiver Implementing Regulations, and Improving Health Insurance Markets for 2022 and Beyond''.

S. CON. RES. 9

At the request of Mr. HEINRICH, the name of the Senator from Arizona (Ms. SINEMA) was added as a cosponsor of S. Con. Res. 9, a concurrent resolution supporting the Local Radio Freedom Act.

S. RES. 568

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mr. PADILLA) was added as a cosponsor of S. Res. 568, a resolution supporting the goals and ideals of ''Countering

International Parental Child Abduction Month'' and expressing the sense of the Senate that Congress should raise awareness of the harm caused by international parental child abduction.

S. RES. 585

At the request of Mr. MENENDEZ, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 585, a resolution honoring the life, achievements, and legacy of the Honorable Madeleine K. Albright.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN:

S. 4089. A bill to restore entitlement to educational assistance under Veterans Rapid Retraining Program in cases of a closure of an educational institution or a disapproval of a program of education, and for other purposes; considered and passed.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

Without objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 4089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans Rapid Retraining Assistance Program Restoration and Recovery Act of 2022''.

SEC. 2. RESTORATION OF ENTITLEMENT UNDER VETERANS RAPID RETRAINING ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 8006 of the American Rescue Plan Act of 2021 (Public Law 117–2), as amended by the Training in High-demand Roles to Improve Veteran Employment Act (Public Law 117–16), is further amended—

(1) by redesignating subsection (n) as subsection (o); and

(2) by inserting after subsection (m), the following new subsection (n):

''(n) EFFECTS OF CLOSURE OF AN EDUCATIONAL INSTITUTION OR DISAPPROVAL OF A PROGRAM OF EDUCATION.—

''(1) IN GENERAL.—Any payment of retraining assistance under subsection (d)(1) shall not be charged against any entitlement to retraining assistance described in subsection (a) if the Secretary determines that an individual was unable to complete a course or program of education as a result of —

''(A) the closure of an educational institution; or

''(B) the disapproval of a program of education by the State approving agency or the Secretary when acting in the role of the State approving agency.

''(2) PERIOD NOT CHARGED.—The period for which, by reason of this subsection, retraining assistance is not charged shall be equal to the full amount of retraining assistance provided for enrollment in the program of education.

''(3) HALT OF PAYMENTS TO CERTAIN EDUCATIONAL INSTITUTIONS.—In the event of a closure or disapproval, as described in paragraph (1), the educational institution shall not receive any further payments under subsection (d).

''(4) RECOVERY OF FUNDS.—In the event of a closure or disapproval, as described in paragraph (1), any payment already made under subsection (d) to the educational institution shall be considered an overpayment and constitute a liability of such institution to the United States.''.

(b) CONFORMING AMENDMENT.—In subsection (b)(3) of such section, strike the period and insert '', except for an individual described in subsection (n).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the American Rescue Plan Act of 2021 (Public Law 117–2).

By Mr. DURBIN (for himself and Mr. BRAUN):

S. 4090. A bill to improve transparency and availability of information regarding dietary supplements by amending the Federal Food, Drug, and Cosmetic Act to require manufacturers of dietary supplements to list dietary supplements with the Food and Drug Administration; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

Without objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 4090

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Dietary Supplement Listing Act of 2022''.

SEC. 2. REGULATION OF DIETARY SUPPLEMENTS.

(a) IN GENERAL.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by inserting after section 403C of such Act the following:

''SEC. 403D. DIETARY SUPPLEMENT LISTING REQUIREMENT.

''(a) IN GENERAL.—Each dietary supplement shall be listed with the Secretary in accordance with this section.

''(b) LISTING SUBMISSIONS.—

''(1) IN GENERAL.—Each responsible person, or, if the responsible person is a foreign entity, the United States agent, shall submit to the Secretary in accordance with this section the following information for each dietary supplement that will be marketed:

''(A) Any proprietary name of the dietary supplement and the statement of identity, including brand name and specified flavors, if applicable.

''(B) The full name, address, and telephone number for the responsible person, and the name and e-mail address of the owner, operator, or agent in charge of the responsible person.

''(C) The full name, address, telephone number, and e-mail address for the United States agent, if the responsible person is a foreign entity.

''(D) The full business name and address of all locations at which the responsible person manufactures, packages, labels, or holds the dietary supplement.

''(E) An electronic copy of the label for the dietary supplement, and an electronic copy of the package insert, if any.

''(F) A list of all ingredients in the dietary supplement required to appear on the label under sections 101.4 and 101.36 of title 21, Code of Federal Regulations, including—

''(i) the amount per serving of each listed ingredient, if such information is required to appear on the label; and

''(ii) if required by section 101.36 of title 21, Code of Federal Regulations, the percent of the daily value of each listed ingredient.

''(G) The number of servings per container for each container size.

''(H) The conditions of use.

''(I) Warnings and precautions.

''(J) Statements regarding major food allergens, as defined in section 201(qq) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(qq)).

''(K) The dosage form, such as pill, capsule, liquid, or powder.

''(L) Any claim that—

''(i) characterizes the relationship of any nutrient which is of the type required by section 403(q)(1) or section (q)(2) to be in the label or labeling of the food to a disease or a health-related condition; or

''(ii) is subject to notification under section 403(r)(6) that appears in the supplement's labeling.

''(M) The unique dietary supplement identifier for the product, provided in accordance with paragraph (3).

''(2) FORMAT.—A listing submitted under this section shall be in such electronic form and manner as the Secretary may prescribe. The Secretary shall promptly confirm, electronically, receipt of a complete listing under this section.

''(3) UNIQUE LISTING IDENTIFICATION NUMBERS.—

''(A) IN GENERAL.—The Secretary shall establish a unique dietary supplement identifier system that shall be used by the responsible person under this section.

''(B) RESERVATION OF NUMBERS.—The system shall allow a responsible person to reserve multiple dietary supplement identifier numbers in advance of listing.

''(C) USE REQUIREMENT.—Any unique dietary supplement identifier shall be used only in connection with the product for which the identifier was used during the listing process.

''(4) SUBMISSION DATES.—A responsible person under this section shall report to the Secretary the listing information described in paragraph (1) pursuant to the following timelines:

''(A) IN GENERAL.—

''(i) EXISTING DIETARY SUPPLEMENTS.—In the case of a dietary supplement that is being offered in interstate commerce on the date that is 18 months after the date of enactment of the Dietary Supplement Listing Act of 2022, a listing for each such dietary supplement formulation introduced or delivered for introduction into interstate commerce by the responsible person for commercial distribution shall be submitted by the responsible person with the Secretary under this section not later than 60 days after the date that is 18 months after the date of enactment of such Act.

''(ii) NEW DIETARY SUPPLEMENTS.—In the case of a dietary supplement that is not being offered in interstate commerce on the date that is 18 months after the date of enactment. of the Dietary Supplement Listing Act of 2022, a listing for each such dietary supplement formulation introduced or delivered for introduction into interstate commerce by the responsible person for commercial distribution which has not been included in any listing previously submitted by the responsible person to the Secretary under this section shall be submitted to the Secretary prior to introducing the dietary supplement into interstate commerce.

''(B) REFORMULATIONS.—A listing of each dietary supplement formulation introduced by the responsible person for commercial distribution that has a label that differs for such dietary supplement from the representative label provided under subsection (a) with respect to the product name, amount of dietary ingredients, or other distinguishing characteristics such as dosage form (such as pill, capsule, liquid, or powder) shall be submitted to the Secretary not later than 15 business days after introducing the dietary

supplement with the change into interstate commerce.

''(C) DISCONTINUED DIETARY SUPPLEMENTS.—If the responsible person has discontinued the commercial marketing of a dietary supplement formulation included in a listing submitted by the responsible person under subparagraph (A) or (B), the responsible person shall report to the Secretary the date of such discontinuance, within 90 days of the discontinuance of the dietary supplement.

''(5) SUPPLIER INFORMATION RECORD KEEPING REQUIREMENT.—Each responsible person subject to the requirements of this subsection shall maintain a record of the full business name and address from which the responsible person receives any dietary ingredient or combination of dietary ingredients that the responsible person uses in the manufacture of the dietary supplement, or, if applicable, from which the responsible person receives the dietary supplement. The responsible person shall make this information available to the Secretary within 72 hours of request from the Secretary.

''(c) ELECTRONIC DATABASE.—Beginning not later than 2 years after the Secretary specifies a unique dietary supplement identifier system pursuant to subsection (b)(3), the Secretary shall maintain an electronic database that—

''(1) is publicly accessible;

''(2) is populated with information regarding dietary supplements that is provided under this section or any other provision of this Act; and

''(3) enables the public to search the database by a dietary supplement's unique dietary supplement identifier or other field of information or combination of fields.

''(d) AUTHORIZATION OF APPROPRIATIONS.—For purposes of conducting activities under this section and hiring personnel to carry out this section, there are authorized to be appropriated $4,000,000 for fiscal year 2022 and $1,000,000 for each of fiscal years 2023 through 2026.''.

(b) MISBRANDING.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

''(z) If it is a dietary supplement for which a responsible person is required to file a listing under section 403D and such responsible person has not made a listing with respect to such dietary supplement.''.

(c) NEW PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

''(fff) The introduction or delivery for introduction into interstate commerce of a dietary supplement that has been prepared, packed, or held using the assistance of, or at the direction of, a person debarred under section 306.''.

(d) RULE OF CONSTRUCTION.—Nothing in the amendments made by subsections (a) through subsection (c) shall be construed to expand the existing authorities of the Food and Drug Administration, other than as specified in such amendments. This subsection shall not be construed to—

(1) limit the existing authorities of the Food and Drug Administration; or

(2) limit the authorities specified in the amendments made by subsections (a) through subsection (c).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 595—DESIGNATING THE WEEK OF APRIL 18 THROUGH APRIL 24, 2022, AS ''NATIONAL OSTEOPATHIC MEDICINE WEEK''

Mr. MANCHIN (for himself, Mr. WICKER, Mr. CASEY, Mrs. CAPITO, Mr. HEINRICH, and Mr. GRASSLEY) submitted the following resolution; which was considered and agreed to:

S. RES. 595

Whereas there are more than 134,000 osteopathic physicians and 33,800 osteopathic medical students in the United States;

Whereas osteopathic physicians and medical students train at high-caliber schools of osteopathic medicine across the United States, including in rural communities;

Whereas osteopathic physicians have made significant contributions to the United States healthcare system since the founding of the field of osteopathic medicine;

Whereas osteopathic medicine emphasizes a patient-centered approach to healthcare, and osteopathic physicians play an important role in the United States healthcare system;

Whereas osteopathic physicians have been critical in the fight against the coronavirus 2019 pandemic and have worked on the front lines treating patients;

Whereas osteopathic physicians practice in all specialty areas and practice settings of medicine;

Whereas osteopathic physicians and medical students in the United States are dedicated to improving the health of their communities through efforts to increase education and awareness and by delivering high-quality health services; and

Whereas osteopathic physicians currently practice in every State: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of April 18 through April 24, 2022, as ''National Osteopathic Medicine Week'';

(2) recognizes the contributions of osteopathic physicians to the United States healthcare system; and

(3) celebrates the role that schools of osteopathic medicine play in training the next generation of osteopathic physicians.

AUTHORITY FOR COMMITTEES TO MEET

Ms. HASSAN. Mr. President, I have 10 requests for committees to meet during today's session of the Senate. They have the approval of the Majority and Minority Leaders.

Pursuant to rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today's session of the Senate:

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

The Committee on Agriculture, Nutrition, and Forestry is authorized to meet during the session of the Senate on Tuesday, April 26, 2022, at 10 a.m., to conduct a hearing.

COMMITTEE ON ARMED SERVICES

The Committee on Armed Services is authorized to meet during the session of the Senate on Tuesday, April 26, 2022, at 9:30 a.m., to conduct a hearing.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

The Committee on Banking, Housing, and Urban Affairs is authorized to meet during the session of the Senate on Tuesday, April 26, 2022, at 10 a.m., to conduct a hearing.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

The Committee on Banking, Housing, and Urban Affairs is authorized to meet in executive session during the session of the Senate on Tuesday, April 26, 2022, to vote on nominations.

COMMITTEE ON FOREIGN RELATIONS

The Committee on Foreign Relations is authorized to meet during the session of the Senate on Tuesday, April 26, 2022, at 10 a.m., to conduct a hearing.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

The Committee on Health, Education, Labor, and Pensions is authorized to meet during the session of the Senate on Tuesday, April 26, 2022, at 10 a.m., to conduct a hearing.

SELECT COMMITTEE ON INTELLIGENCE

The Select Committee on Intelligence is authorized to meet during the session of the Senate on Tuesday, April 26, 2022, at 2:30 p.m., to conduct a closed briefing.

SUBCOMMITTEE ON ECONOMIC POLICY

The Subcommittee on Economic Policy of the Committee on Banking, Housing, and Urban Affairs is authorized to meet during the session of the Senate on Tuesday, April 26, 2022, at 2:30 p.m., to conduct a hearing.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

The Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs is authorized to meet during the session of the Senate on Tuesday, April 26, 2022, at 10 a.m., to conduct a hearing.

SUBCOMMITTEE ON SEAPOWER

The Subcommittee on Seapower of the Committee on Armed Services is authorized to meet during the session of the Senate on Tuesday, April 26, 2022, at 2:30 p.m., to conduct a hearing.

UNANIMOUS CONSENT AGREEMENT

Ms. HASSAN. Mr. President, I ask unanimous consent that the notice of proposed rulemaking from the Office of Congressional Workplace Rights be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOTICE OF PROPOSED RULEMAKING

U.S. CONGRESS,
OFFICE OF CONGRESSIONAL WORKPLACE RIGHTS,
Washington, DC, April 26, 2022.

Hon. PATRICK J. LEAHY,
President Pro Tempore of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Section 203(c)(1) of the Congressional Accountability Act (CAA),

2 U.S.C. 1313(c)(1), requires the Board of Directors of the Office of Congressional Workplace Rights (''the Board'') to issue regulations implementing Section 203 of the CAA relating to the Fair Labor Standards Act of 1938 (''FLSA''), 29 U.S.C. 206 et seq., made applicable to the legislative branch by the CAA. 2 U.S.C. 1313(a)(1).

Section 304(b)(1) of the CAA, 2 U.S.C. 1384(b)(1), requires that the Board issue a general notice of proposed rulemaking by transmitting ''such notice to the Speaker of the House of Representatives and the President Pro Tempore of the Senate for publication in the Congressional Record on the first day of which both Houses are in session following such transmittal.''

On behalf of the Board, I am hereby transmitting the attached notice of proposed rulemaking to the President Pro Tempore of the U.S. Senate. I request that this notice be published in the Senate section of the Congressional Record on the first day on which both Houses are in session following receipt of this transmittal. In compliance with Section 304(b)(2) of the CAA, a comment period of 30 days after the publication of this notice of proposed rulemaking is being provided before adoption of the rules.

Any inquiries regarding this notice should be addressed to Teresa James, Acting Executive Director of the Office of Congressional Workplace Rights, 110 Second Street, S.E., Room LA–200, Washington, DC 20540–1999; telephone: 202–724–9250.

Sincerely,

BARBARA CHILDS WALLACE,
Chair of the Board of Directors, Office of Congressional Workplace Rights.

Attachment.

FROM THE BOARD OF DIRECTORS OF THE OFFICE OF CONGRESSIONAL WORKPLACE RIGHTS

Implementing Certain Substantive Rights and Protections of the Fair Labor Standards Act of 1938, as Required by Section 203 of the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1313.

NOTICE OF PROPOSED RULEMAKING

Background:

The purpose of this Notice is to initiate the process for replacing existing legislative branch Fair Labor Standards Act (FLSA) overtime substantive regulations under section 203 of the Congressional Accountability Act (CAA), 2 U.S.C. 1302 et seq., which were adopted by the Board and approved by the House and the Senate in 1996, with new regulations that substantially mirror the overtime exemption regulations promulgated by the Secretary of Labor thereafter and presently in effect. These modifications are necessary in order to bring existing legislative branch FLSA overtime regulations in line with multiple regulatory changes that have occurred since 1996. The regulations that presently implement the FLSA for the Legislative Branch are woefully out of date because the Secretary of Labor's updated FLSA regulations do not automatically apply to employing offices and employees covered by the CAA. As a result, the employees of the Legislative Branch are presently held to FLSA overtime standards that are no longer realistic in today's economy.

Do FLSA overtime pay requirements apply via the CAA to Legislative Branch employing offices?

Yes. Section 203(a)(1) of the CAA states: ''[t]he rights and protections established by subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the [FLSA] . . . (29 U.S.C. 206(a)(1), 207, 212(c)) shall apply to covered employees.'' Section 7 of the FLSA, 29 U.S.C. 207, includes the requirements regarding the payment of time and one half overtime pay to employees.

Are there existing overtime exemption regulations already in force under the CAA?

Yes. In 1996, the Board of Directors of the Office of Compliance—now the Office of Congressional Workplace Rights—promulgated the existing CAA overtime exemption regulations based on Department of Labor's regulations that were in effect at the time. Those regulations were adopted pursuant to the CAA section 304 procedure outlined herein below. Those regulations are found at Parts H541 (applicable to the House of Representatives), S541 (applicable to the Senate), and C541 (applicable to the other employing offices covered by section 203 of the CAA) of the FLSA Regulations of the (then) Office of Compliance. Those regulations remain in force in the Legislative Branch until replaced by new regulations. The 1996 FLSA Substantive regulations can be accessed via the Office of Congressional Workplace Rights web site: www.ocwr.gov.

What is the history of the FLSA overtime salary threshold test?

Historically, the salary threshold test contained in the Department of Labor's regulations has been a fixed amount that has not changed with inflation. In 2004, the Department of Labor promulgated regulations increasing the salary threshold test so that employees with low salaries would not be deprived of overtime pay. Thus, in 2004, the Board of Directors adopted and submitted for publication in the Congressional Record amendments to its 1996 substantive regulations regarding the FLSA overtime exemptions. 150 Cong. Rec. H7850–07, S9917–01 (daily ed. September 29, 2004).

The 2004 Amendments to the Legislative Branch substantive regulations adopted by the Board mirrored new overtime exemption regulations promulgated by the Department of Labor, Vol. 69 of the Federal Register, No. 79, at pp. 22122 et seq., which substantially changed the prior overtime exemptions. More specifically, the 2004 FLSA amendments adopted by the Board of Directors reflected the new Part 541 in the updated DOL regulations then in effect, which restructured much of the regulatory framework for determining whether a particular employee is exempt from FLSA overtime requirements. The 2004 changes included: (1) eliminating the ''short'' and ''long tests and revising the standard duties test for each exemption category; (2) significantly increasing the salary level under DOL's revised standard duties test to $455 per week for executive, administrative, and professional employee exemptions and (3) creating a ''highly compensated executive'' category in which employees who are paid total annual compensation of at least $100,000 (which must include at least $455 per week paid on a salary or fee basis) are exempt from the FLSA's overtime requirements if they customarily and regularly perform at least one of the exempt duties or responsibilities of an executive, administrative, or professional employee identified in the standard tests for exemption.

However, because Congress did not approve the 2004 amendments adopted by the Board, the 2004 DOL regulations containing FLSA exemption updates were not made applicable to the Legislative Branch. The regulations proposed by the Board in this Notice of Proposed Rulemaking incorporate the 2004 amendments previously adopted by the Board after public notice and comment, and further update the overtime exemption regulations to mirror further Department of Labor changes in 2016, 2019, and 2020.

Why is this Notice being issued?

Over the past 25 years, the Secretary of Labor has substantially rewritten and expanded Part 541 and has repeatedly increased the salary threshold test. However, the Secretary of Labor's regulations do not automatically apply to employing offices and employees covered by the CAA. Because the 2004 amendments adopted by the Board were not approved by Congress, unlike the Department of Labor's current regulations, the present salary threshold test within the Legislative Branch sets the salary below the poverty level. Specifically, the 1996 Substantive Regulations has a salary basis test of ''not less than $155 per week'' which is an annual salary of less than $8000.00 per year. In other sections of the 1996 Substantive Regulations that remain applicable to the Legislative Branch, the salary basis test is ''not less than $250 per week'' which is yearly salary of approximately $13,000.00. This Notice is being issued, in part, to modify this substantially lower salary test set by the 1996 FLSA Substantive Regulations that are financially outdated and yet remain in effect.

This Notice of Proposed Rulemaking is occasioned by the promulgation of new overtime exemption regulations by the Secretary of Labor at Vol. 69 of the Federal Register, No. 79, at pp. 22122 et seq., on August 23, 2004; Vol. 81 of the Federal Register, at pp. 32391 et seq., on May 23, 2016; Vol. 84 of the Federal Register, at pp. 51230 et seq., on September 27, 2019; and Vol. 85 of the Federal Register, at pp. 34970–01 et seq., on June 8, 2020. The new regulations of the Secretary of Labor as set out at 29 U.S.C. Part 541, reflect the substantial restructuring of overtime exemptions described above, which to date have not yet been made applicable to the Legislative Branch.

Is the Board proposing to adopt the current Department of Labor Regulations verbatim?

The Board has deliberated regarding the question of whether ''good cause'' exists pursuant to section 203(c)(2) of the CAA, 2 U.S.C. 1313(c)(2), for varying these proposed regulations from the Department of Labor regulations. The Board reconsidered comments submitted in response to the Notice of Proposed Rulemaking in 2004 and now agrees that subsections that refer to occupations that do not apply in any manner to the Congressional branch, e.g., §541.101—Business owner and Subpart F—Outside Sales Employees, should not be retained as part of the regulations adopted and/or approved for the Legislative branch. Substantive Regulations that are focused solely on occupations existing within the Legislative Branch would be more effective for the implementation of the rights and protections under this section. As a result, these sections are delineated with bold brackets in this Notice.

Why are there separate sets of existing FLSA regulations for the House of Representatives, the Senate, and the other employing offices covered by the CAA?

Section 304(a)(2)(B) of the CAA, 2 U.S.C. 1384(a)(2)(B), requires that the substantive rules of the Board of Directors ''shall consist of 3 separate bodies of regulations, which shall apply, respectively, to—(i) the Senate and employees of the Senate; (ii) the House of Representatives and employees of the House of Representatives; and (iii) the other covered employees and employing offices.'' In 1996, the House of Representatives (H. Res. 400) and the Senate (S. Res. 242) each adopted by resolution the FLSA regulations applicable to each body. The Senate and House of Representatives adopted by concurrent resolution (S. Con. Res. 51) the regulations applicable to other employing offices and employees.

Are there substantive differences in the proposed regulations for the House of Representatives, the Senate, and the other employing offices?

No. While there are some differences in other parts of the existing FLSA regulations

applicable to the Senate, the House of Representatives, and the other employing offices (chiefly related to the mandate at section 203(c)(3) of the CAA, 2 U.S.C. 1313(c)(3), regarding ''covered employees whose work schedules directly depend on the schedule of the House of Representatives or the Senate . . .''), the Board of Directors has identified no ''good cause'' for varying the text of these regulations. Therefore, if the proposed part 541 regulations are adopted, the prefixes ''H'', ''S'', and ''C'' will be affixed to each of the sets of regulations for the House, for the Senate, and for the other employing offices, but the text of the part 541 regulations will be identical.

How are substantive regulations proposed and approved under the CAA?

Section 203(c)(2) of the CAA, 2 U.S.C. 1313(c)(2), requires that the Board of Directors propose substantive regulations implementing the FLSA overtime requirements which are ''the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions . . . except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulation would be more effective for the implementation of the rights and protections under this section.'' Pursuant to section 304 of the CAA, 2 U.S.C. 1384, the procedure for promulgating such substantive regulations requires that: (1) the Board of Directors adopt proposed substantive regulations and publish a general notice of proposed rulemaking in the Congressional Record; (2) there be a comment period of at least 30 days after the date of publication of the general notice of proposed rulemaking; (3) after consideration of comments by the Board of Directors, that the Board adopt regulations and transmit notice of such action together with the regulations and a recommendation regarding the method for Congressional approval of the regulations to the Speaker of the House and President pro tempore of the Senate for publication in the Congressional Record; (4) committee referral and action on the proposed regulations by resolution in each House, concurrent resolution, or by joint resolution; and (5) final publication of the approved regulations in the Congressional Record, with an effective date prescribed in the final publication. For more detail, please reference the text of 2 U.S.C. 1384. This Notice of Proposed Rulemaking is step (1) of the outline set forth above. Unless and until all of the steps of the outline set forth above are completed, all employing offices and covered employees continue to be required to follow the existing 1996 Substantive Regulations thereby denying many Legislative Branch employees of overtime benefits that they would likely be entitled to pursuant to the current Department of Labor overtime regulations.

How does the Board of Directors recommend that Congress approve these proposed regulations?

Pursuant to section 304(b)(4) of the CAA, 2 U.S.C. 1384(b)(4), the Board of Directors is required to ''include a recommendation in the general notice of proposed rulemaking and in the regulations as to whether the regulations should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, or by joint resolution.'' The Board of Directors recommends that the procedure used in 1996 be used to adopt these proposed overtime exemption regulations: the House of Representatives adopted the ''H'' version of the regulations by resolution; the Senate adopted the ''S'' version of the regulations by resolution; and the House and Senate adopted the ''C'' version of the regulations applied to the other employing offices by a concurrent resolution.

Are these proposed regulations also recommended by the Office of Congressional Workplace Rights' Executive Director, the Deputy Executive Director for the House of Representatives, and the Deputy Executive Director for the Senate?

Yes, as required by section 304(b)(1) of the CAA, 2 U.S.C. 1384(b)(1), the substance of these regulations is also recommended by the Executive Director and Deputy Executive Directors of the Office of Congressional Workplace Rights.

How similar are the proposed CAA regulations with the current Secretary of Labor regulations?

Except for certain required changes to refer to the Legislative Branch instead of the Executive Branch, which are shown in the accompanying proposed regulations, the Board of Directors has repeated the text of the regulations at 29 CFR Part 541 verbatim. ''Good cause'' for modification of the existing regulations of the Secretary of Labor, as required by section 203(c)(2) of the CAA, 2 U.S.C. 1313(c)(2), consists of those changes needed to reflect the authority of the CAA as the enabling statute for these regulations, the requirement at section 225(d)(3) of the CAA, 2 U.S.C. 1361(d)(3), that the CAA ''shall not be construed to authorize enforcement by the executive branch of this Act. . . .''. If there is any additional good cause for a particular proposed variation from the Secretary of Labor's regulations, it is set out adjacent to that provision of the proposed regulation.

Are these proposed CAA regulations available to persons with disabilities in an alternate format?

This Notice of Proposed Rulemaking is available on the Office of Congressional Workplace Rights' web site, www.ocwr.gov which is compliant with section 508 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. 794(d). This Notice can also be made available in large print, Braille, or other alternative format. Requests for this Notice in an alternative format should be made via email to: adaaccess@ocwr.gov.

30-DAY COMMENT PERIOD REGARDING THE PROPOSED REGULATIONS

How can I submit comments regarding the proposed regulations?

Comments regarding the proposed new overtime exemption regulations of the Office of Congressional Workplace Rights set forth in this NOTICE are invited for a period of thirty (30) days following the date of the appearance of this NOTICE in the Congressional Record. Submission of comments must be made in writing to the Executive Director, Office of Congressional Workplace Rights, via email at rule-comments@ocwr.gov. Copies of submitted comments will be available for review on the Office's web site at www.ocwr.gov.

Supplementary Information:

The Congressional Accountability Act of 1995 (CAA), PL 10–91, was enacted into law on January 23, 1995. The CAA applies the rights and protections of 12 federal labor and employment statutes to covered employees and employing offices within the Legislative Branch of Government. Section 301 of the CAA (2 U.S.C. 1381), as amended, establishes the Office of Congressional Workplace Rights as an independent office within the Legislative Branch.

HOW TO READ THE PROPOSED AMENDMENTS

The text of the proposed amendments reproduces the text of the current regulations promulgated by the Secretary of Labor at 29 CFR Part 541, and shows changes proposed for the CAA version of these same regulations. Changes proposed by the Board of Directors of the Office of Congressional Workplace Rights are shown as follows: deletions are marked with a [bracket] and added text is bolded within angled <<brackets>>. Therefore, if these regulations are approved as proposed, the deletion within bracketed text will disappear from the regulations and the added text within angled brackets will remain but not in bold. If these regulations are approved for the House of Representatives by resolution of the House, they will be promulgated with the prefix ''H'' appearing before each regulations section number. If these regulations are approved for the Senate by resolution of the Senate, they will be promulgated with the prefix ''S'' appearing before each regulations section number. If these regulations are approved for the other employing offices by joint or concurrent resolution of the House of Representatives and the Senate, they will be promulgated with the prefix ''C'' appearing before each regulations section number.

PROPOSED OVERTIME EXEMPTION REGULATIONS

Part 541—Defining and Delimiting the Exemptions for Executive, Administrative, Professional, and Computer [and Outside Sales] Employees

SUBPART A—GENERAL REGULATIONS (§§ 541.0–541.4)

§ 541.0 Introductory statement.

(a) Section 13(a)(1) of the Fair Labor Standards Act, as amended, provides an exemption from the Act's minimum wage and overtime requirements for any employee employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools)**[**, or in the capacity of an outside sales employee, as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act.**]** Section 13(a)(17) of the Act provides an exemption from the minimum wage and overtime requirements for computer systems analysts, computer programmers, software engineers, and other similarly skilled computer employees.

(b) The requirements for these exemptions are contained in this part as follows: executive employees, subpart B; administrative employees, subpart C; professional employees, subpart D; computer employees, subpart E**[**; outside sales employees, subpart F**]**. Subpart G contains regulations regarding salary requirements applicable to most of the exemptions, including salary levels and the salary basis test. Subpart G also contains a provision for exempting certain highly compensated employees. Subpart H contains definitions and other miscellaneous provisions applicable to all or several of the exemptions.

(c) Effective July 1, 1972, the Fair Labor Standards Act was amended to include within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools)**[**, or in the capacity of an outside sales employee under section 13(a)(1) of the Act**]**. The equal pay provisions in section 6(d) of the Fair Labor Standards Act are administered and enforced by the **[**United States Equal Employment Opportunity Commission**]** <<**Office of Congressional Workplace Rights**>>.

§ 541.1 Terms used in regulations.

Act means the Fair Labor Standards Act of 1938, as amended.

[Administrator means the Administrator of the Wage and Hour Division, United States Department of Labor. The Secretary of Labor has delegated to the Administrator the functions vested in the Secretary under sections 13(a)(1) and 13(a)(17) of the Fair Labor Standards Act.**]** <<**CAA means Congressional Accountability Act of 1995, as amended. Office means the Office of Congressional Workplace Rights. Employee means a "covered employee" as defined in section 101(3) through (8) of the CAA, 2 U.S.C. 1301(3) through (8), but not an "intern" as defined in section 203(a)(2) of the CAA, 2 U.S.C. 1313(a)(2). Employer, company, business, or enterprise each mean an "employing office" as defined in section 101(9) of the CAA, 2 U.S.C. 1301(9)**.>>

§ 541.2 Job titles insufficient.

A job title alone is insufficient to establish the exempt status of an employee. The exempt or nonexempt status of any particular employee must be determined on the basis of whether the employee's salary and duties meet the requirements of the regulations in this part.

§ 541.3 Scope of the section 13(a)(1) exemptions.

(a) The section 13(a)(1) exemptions and the regulations in this part do not apply to manual laborers or other ''blue collar'' workers who perform work involving repetitive operations with their hands, physical skill and energy. Such nonexempt ''blue collar'' employees gain the skills and knowledge required for performance of their routine manual and physical work through apprenticeships and on-the-job training, not through the prolonged course of specialized intellectual instruction required for exempt learned professional employees such as medical doctors, architects and archeologists. Thus, for example, non-management production-line employees and non-management employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers and laborers are entitled to minimum wage and overtime premium pay under the Fair Labor Standards Act, and are not exempt under the regulations in this part no matter how highly paid they might be.

(b)(1) The section 13(a)(1) exemptions and the regulations in this part also do not apply to police officers, detectives, deputy sheriffs, state troopers, highway patrol officers, investigators, inspectors, correctional officers, parole or probation officers, park rangers, fire fighters, paramedics, emergency medical technicians, ambulance personnel, rescue workers, hazardous materials workers and similar employees, regardless of rank or pay level, who perform work such as preventing, controlling or extinguishing fires of any type; rescuing fire, crime or accident victims; preventing or detecting crimes; conducting investigations or inspections for violations of law; performing surveillance; pursuing, restraining and apprehending suspects; detaining or supervising suspected and convicted criminals, including those on probation or parole; interviewing witnesses; interrogating and fingerprinting suspects; preparing investigative reports; or other similar work.

(2) Such employees do not qualify as exempt executive employees because their primary duty is not management of the enterprise in which the employee is employed or a customarily recognized department or subdivision thereof as required under § 541.100. Thus, for example, a police officer or fire fighter whose primary duty is to investigate crimes or fight fires is not exempt under section 13(a)(1) of the Act merely because the police officer or fire fighter also directs the work of other employees in the conduct of an investigation or fighting a fire.

(3) Such employees do not qualify as exempt administrative employees because their primary duty is not the performance of work directly related to the management or general business operations of the employer or the employer's customers as required under § 541.200.

(4) Such employees do not qualify as exempt professionals because their primary duty is not the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction or the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor as required under § 541.300. Although some police officers, fire fighters, paramedics, emergency medical technicians and similar employees have college degrees, a specialized academic degree is not a standard prerequisite for employment in such occupations.

§ 541.4 Other laws and collective bargaining agreements.

The Fair Labor Standards Act provides minimum standards that may be exceeded, but cannot be waived or reduced. Employers must comply, for example, with any Federal, State or municipal laws, regulations or ordinances establishing a higher minimum wage or lower maximum workweek than those established under the Act. Similarly, employers, on their own initiative or under a collective bargaining agreement with a labor union, are not precluded by the Act from providing a wage higher than the statutory

minimum, a shorter workweek than the statutory maximum, or a higher overtime premium (double time, for example) than provided by the Act. While collective bargaining agreements cannot waive or reduce the Act's protections, nothing in the Act or the regulations in this part relieves employers from their contractual obligations under collective bargaining agreements.

SUBPART B—EXECUTIVE EMPLOYEES (§§ 541.100–541.106)

§ 541.100 General rule for executive employees.

(a) The term ''employee employed in a bona fide executive capacity'' in section 13(a)(1) of the Act shall mean any employee:

(1) Compensated on a salary basis pursuant to § 541.600 at a rate of not less than $684 per week [(or $455 per week if employed in the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, or the U.S. Virgin Islands by employers other than the Federal government, or $380 per week if employed in American Samoa by employers other than the Federal government)], exclusive of board, lodging or other facilities;

(2) Whose primary duty is management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof;

(3) Who customarily and regularly directs the work of two or more other employees; and

(4) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight.

(b) The phrase ''salary basis'' is defined at § 541.602; ''board, lodging or other facilities'' is defined at § 541.606; ''primary duty'' is defined at § 541.700; and ''customarily and regularly'' is defined at § 541.701.

[§ 541.101 Business owner.

The term ''employee employed in a bona fide executive capacity'' in section 13(a)(1) of the Act also includes any employee who owns at least a bona fide 20-percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management. The term ''management'' is defined in § 541.102. The requirements of Subpart G (salary requirements) of this part do not apply to the business owners described in this section.]

§ 541.102 Management.

Generally, ''management'' includes, but is not limited to, activities such as interviewing, selecting, and training of employees; setting and adjusting their rates of pay and hours of work; directing the work of employees; maintaining production or sales records for use in supervision or control; appraising employees' productivity and efficiency for the purpose of recommending promotions or other changes in status; handling employee complaints and grievances; disciplining employees; planning the work; determining the techniques to be used; apportioning the work among the employees; determining the type of materials, supplies, machinery, equipment or tools to be used or merchandise to be bought, stocked and sold; controlling the flow and distribution of materials or merchandise and supplies; providing for the safety and security of the employees or the property; planning and controlling the budget; and monitoring or implementing legal compliance measures.

§ 541.103 Department or subdivision.

(a) The phrase ''a customarily recognized department or subdivision'' is intended to distinguish between a mere collection of employees assigned from time to time to a specific job or series of jobs and a unit with permanent status and function. A customarily recognized department or subdivision must have a permanent status and a continuing function. For example, a large employer's human resources department might have subdivisions for labor relations, pensions and other benefits, equal employment opportunity, and personnel management, each of which has a permanent status and function.

(b) When an enterprise has more than one establishment, the employee in charge of each establishment may be considered in charge of a recognized subdivision of the enterprise.

(c) A recognized department or subdivision need not be physically within the employer's establishment and may move from place to place. The mere fact that the employee works in more than one location does not invalidate the exemption if other factors show that the employee is actually in charge of a recognized unit with a continuing function in the organization.

(d) Continuity of the same subordinate personnel is not essential to the existence of a recognized unit with a continuing function. An otherwise exempt employee will not lose the exemption merely because the employee draws and supervises workers from a pool or supervises a team of workers drawn from other recognized units, if other factors are present that indicate that the employee is in charge of a recognized unit with a continuing function.

§ 541.104 Two or more other employees.

(a) To qualify as an exempt executive under § 541.100, the employee must customarily and regularly direct the work of two or more other employees. The phrase ''two or more other employees'' means two full-time employees or their equivalent. One full-time and two half-time employees, for example, are equivalent to two full-time employees. Four half-time employees are also equivalent.

(b) The supervision can be distributed among two, three or more employees, but each such employee must customarily and regularly direct the work of two or more other full-time employees or the equivalent. Thus, for example, a department with five full-time nonexempt workers may have up to two exempt supervisors if each such supervisor customarily and regularly directs the work of two of those workers.

(c) An employee who merely assists the manager of a particular department and supervises two or more employees only in the actual manager's absence does not meet this requirement.

(d) Hours worked by an employee cannot be credited more than once for different executives. Thus, a shared responsibility for the supervision of the same two employees in the same department does not satisfy this requirement. However, a full-time employee who works four hours for one supervisor and four hours for a different supervisor, for example, can be credited as a half-time employee for both supervisors.

§ 541.105 Particular weight.

To determine whether an employee's suggestions and recommendations are given ''particular weight,'' factors to be considered include, but are not limited to, whether it is part of the employee's job duties to make such suggestions and recommendations; the frequency with which such suggestions and recommendations are made or requested; and the frequency with which the employee's suggestions and recommendations are relied upon. Generally, an executive's suggestions and recommendations must pertain to employees whom the executive customarily and regularly directs. It does not include an occasional suggestion with regard to the change in status of a co-worker. An employee's suggestions and recommendations may still be deemed to have ''particular weight'' even if a higher level manager's recommendation has more importance and even if the employee does not have authority to make the ultimate decision as to the employee's change in status.

§ 541.106 Concurrent duties.

(a) Concurrent performance of exempt and nonexempt work does not disqualify an employee from the executive exemption if the requirements of § 541.100 are otherwise met. Whether an employee meets the requirements of § 541.100 when the employee performs concurrent duties is determined on a case-by-case basis and based on the factors set forth in § 541.700. Generally, exempt executives make the decision regarding when to perform nonexempt duties and remain responsible for the success or failure of business operations under their management while performing the nonexempt work. In contrast, the nonexempt employee generally is directed by a supervisor to perform the exempt work or performs the exempt work for defined time periods. An employee whose primary duty is ordinary production work or routine, recurrent or repetitive tasks cannot qualify for exemption as an executive.

(b) For example, an assistant manager in a retail establishment may perform work such as serving customers, cooking food, stocking shelves and cleaning the establishment, but performance of such nonexempt work does not preclude the exemption if the assistant manager's primary duty is management. An assistant manager can supervise employees and serve customers at the same time without losing the exemption. An exempt employee can also simultaneously direct the work of other employees and stock shelves.

(c) In contrast, a relief supervisor or working supervisor whose primary duty is performing nonexempt work on the production line in a manufacturing plant does not become exempt merely because the nonexempt production line employee occasionally has some responsibility for directing the work of other nonexempt production line employees when, for example, the exempt supervisor is unavailable. Similarly, an employee whose primary duty is to work as an electrician is not an exempt executive even if the employee also directs the work of other employees on the job site, orders parts and materials for the job, and handles requests from the prime contractor.

SUBPART C—ADMINISTRATIVE EMPLOYEES (§§ 541.200–541.204)

§ 541.200 General rule for administrative employees.

(a) The term ''employee employed in a bona fide administrative capacity'' in section 13(a)(1) of the Act shall mean any employee:

(1) Compensated on a salary or fee basis pursuant to § 541.600 at a rate of not less than $684 per week [(or $455 per week if employed in the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, or the U.S. Virgin Islands by employers other than the Federal government, or $380 per week if employed in American Samoa by employers other than the Federal government)], exclusive of board, lodging or other facilities;

(2) Whose primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and

(3) Whose primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

(b) The term ''salary basis'' is defined at § 541.602; ''fee basis'' is defined at § 541.605;

''board, lodging or other facilities'' is defined at §541.606; and ''primary duty'' is defined at §541.700.

§541.201 Directly related to management or general business operations.

(a) To qualify for the administrative exemption, an employee's primary duty must be the performance of work directly related to the management or general business operations of the employer or the employer's customers. The phrase ''directly related to the management or general business operations'' refers to the type of work performed by the employee. To meet this requirement, an employee must perform work directly related to assisting with the running or servicing of the business, as distinguished, for example, from working on a manufacturing production line or selling a product in a retail or service establishment.

(b) Work directly related to management or general business operations includes, but is not limited to, work in functional areas such as tax; finance; accounting; budgeting; auditing; insurance; quality control; purchasing; procurement; advertising; marketing; research; safety and health; personnel management; human resources; employee benefits; labor relations; public relations, government relations; computer network, internet and database administration; legal and regulatory compliance; and similar activities. Some of these activities may be performed by employees who also would qualify for another exemption.

(c) An employee may qualify for the administrative exemption if the employee's primary duty is the performance of work directly related to the management or general business operations of the employer's customers. Thus, for example, employees acting as advisers or consultants to their employer's clients or customers (as tax experts or financial consultants, for example) may be exempt.

§541.202 Discretion and independent judgment.

(a) To qualify for the administrative exemption, an employee's primary duty must include the exercise of discretion and independent judgment with respect to matters of significance. In general, the exercise of discretion and independent judgment involves the comparison and the evaluation of possible courses of conduct, and acting or making a decision after the various possibilities have been considered. The term ''matters of significance'' refers to the level of importance or consequence of the work performed.

(b) The phrase ''discretion and independent judgment'' must be applied in the light of all the facts involved in the particular employment situation in which the question arises. Factors to consider when determining whether an employee exercises discretion and independent judgment with respect to matters of significance include, but are not limited to: whether the employee has authority to formulate, affect, interpret, or implement management policies or operating practices; whether the employee carries out major assignments in conducting the operations of the business; whether the employee performs work that affects business operations to a substantial degree, even if the employee's assignments are related to operation of a particular segment of the business; whether the employee has authority to commit the employer in matters that have significant financial impact; whether the employee has authority to waive or deviate from established policies and procedures without prior approval; whether the employee has authority to negotiate and bind the company on significant matters; whether the employee provides consultation or expert advice to management; whether the employee is involved in planning long- or short-term business objectives; whether the employee investigates and resolves matters of significance on behalf of management; and whether the employee represents the company in handling complaints, arbitrating disputes or resolving grievances.

(c) The exercise of discretion and independent judgment implies that the employee has authority to make an independent choice, free from immediate direction or supervision. However, employees can exercise discretion and independent judgment even if their decisions or recommendations are reviewed at a higher level. Thus, the term ''discretion and independent judgment'' does not require that the decisions made by an employee have a finality that goes with unlimited authority and a complete absence of review. The decisions made as a result of the exercise of discretion and independent judgment may consist of recommendations for action rather than the actual taking of action. The fact that an employee's decision may be subject to review and that upon occasion the decisions are revised or reversed after review does not mean that the employee is not exercising discretion and independent judgment. For example, the policies formulated by the credit manager of a large corporation may be subject to review by higher company officials who may approve or disapprove these policies. The management consultant who has made a study of the operations of a business and who has drawn a proposed change in organization may have the plan reviewed or revised by superiors before it is submitted to the client.

(d) An employer's volume of business may make it necessary to employ a number of employees to perform the same or similar work. The fact that many employees perform identical work or work of the same relative importance does not mean that the work of each such employee does not involve the exercise of discretion and independent judgment with respect to matters of significance.

(e) The exercise of discretion and independent judgment must be more than the use of skill in applying well-established techniques, procedures or specific standards described in manuals or other sources. See also §541.704 regarding use of manuals. The exercise of discretion and independent judgment also does not include clerical or secretarial work, recording or tabulating data, or performing other mechanical, repetitive, recurrent or routine work. An employee who simply tabulates data is not exempt, even if labeled as a ''statistician.''

(f) An employee does not exercise discretion and independent judgment with respect to matters of significance merely because the employer will experience financial losses if the employee fails to perform the job properly. For example, a messenger who is entrusted with carrying large sums of money does not exercise discretion and independent judgment with respect to matters of significance even though serious consequences may flow from the employee's neglect. Similarly, an employee who operates very expensive equipment does not exercise discretion and independent judgment with respect to matters of significance merely because improper performance of the employee's duties may cause serious financial loss to the employer.

§541.203 Administrative exemption examples.

(a) Insurance claims adjusters generally meet the duties requirements for the administrative exemption, whether they work for an insurance company or other type of company, if their duties include activities such as interviewing insureds, witnesses and physicians; inspecting property damage; reviewing factual information to prepare damage estimates; evaluating and making recommendations regarding coverage of claims; determining liability and total value of a claim; negotiating settlements; and making recommendations regarding litigation.

(b) Employees in the financial services industry generally meet the duties requirements for the administrative exemption if their duties include work such as collecting and analyzing information regarding the customer's income, assets, investments or debts; determining which financial products best meet the customer's needs and financial circumstances; advising the customer regarding the advantages and disadvantages of different financial products; and marketing, servicing or promoting the employer's financial products. However, an employee whose primary duty is selling financial products does not qualify for the administrative exemption.

(c) An employee who leads a team of other employees assigned to complete major projects for the employer (such as purchasing, selling or closing all or part of the business, negotiating a real estate transaction or a collective bargaining agreement, or designing and implementing productivity improvements) generally meets the duties requirements for the administrative exemption, even if the employee does not have direct supervisory responsibility over the other employees on the team.

(d) An executive assistant or administrative assistant to a business owner or senior executive of a large business generally meets the duties requirements for the administrative exemption if such employee, without specific instructions or prescribed procedures, has been delegated authority regarding matters of significance.

(e) Human resources managers who formulate, interpret or implement employment policies and management consultants who study the operations of a business and propose changes in organization generally meet the duties requirements for the administrative exemption. However, personnel clerks who ''screen'' applicants to obtain data regarding their minimum qualifications and fitness for employment generally do not meet the duties requirements for the administrative exemption. Such personnel clerks typically will reject all applicants who do not meet minimum standards for the particular job or for employment by the company. The minimum standards are usually set by the exempt human resources manager or other company officials, and the decision to hire from the group of qualified applicants who do meet the minimum standards is similarly made by the exempt human resources manager or other company officials. Thus, when the interviewing and screening functions are performed by the human resources manager or personnel manager who makes the hiring decision or makes recommendations for hiring from the pool of qualified applicants, such duties constitute exempt work, even though routine, because this work is directly and closely related to the employee's exempt functions.

(f) Purchasing agents with authority to bind the company on significant purchases generally meet the duties requirements for the administrative exemption even if they must consult with top management officials when making a purchase commitment for raw materials in excess of the contemplated plant needs.

(g) Ordinary inspection work generally does not meet the duties requirements for the administrative exemption. Inspectors normally perform specialized work along standardized lines involving well-established techniques and procedures which may have been catalogued and described in manuals or other sources. Such inspectors rely on techniques and skills acquired by special training

or experience. They have some leeway in the performance of their work but only within closely prescribed limits.

(h) Employees usually called examiners or graders, such as employees that grade lumber, generally do not meet the duties requirements for the administrative exemption. Such employees usually perform work involving the comparison of products with established standards which are frequently catalogued. Often, after continued reference to the written standards, or through experience, the employee acquires sufficient knowledge so that reference to written standards is unnecessary. The substitution of the employee's memory for a manual of standards does not convert the character of the work performed to exempt work requiring the exercise of discretion and independent judgment.

(i) Comparison shopping performed by an employee of a retail store who merely reports to the buyer the prices at a competitor's store does not qualify for the administrative exemption. However, the buyer who evaluates such reports on competitor prices to set the employer's prices generally meets the duties requirements for the administrative exemption.

(j) Public sector inspectors or investigators of various types, such as fire prevention or safety, building or construction, health or sanitation, environmental or soils specialists and similar employees, generally do not meet the duties requirements for the administrative exemption because their work typically does not involve work directly related to the management or general business operations of the employer. Such employees also do not qualify for the administrative exemption because their work involves the use of skills and technical abilities in gathering factual information, applying known standards or prescribed procedures, determining which procedure to follow, or determining whether prescribed standards or criteria are met.

§ 541.204 Educational establishments.

(a) The term ''employee employed in a bona fide administrative capacity'' in section 13(a)(1) of the Act also includes employees:

(1) Compensated on a salary or fee basis at a rate of not less than $684 per week [(or $455 per week if employed in the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, or the U.S. Virgin Islands by employers other than the Federal government, or $380 per week if employed in American Samoa by employers other than the Federal government)], exclusive of board, lodging, or other facilities; or on a salary basis which is at least equal to the entrance salary for teachers in the educational establishment by which employed; and

(2) Whose primary duty is performing administrative functions directly related to academic instruction or training in an educational establishment or department or subdivision thereof.

(b) The term ''educational establishment'' means an elementary or secondary school system, an institution of higher education or other educational institution. Sections 3(v) and 3(w) of the Act define elementary and secondary schools as those day or residential schools that provide elementary or secondary education, as determined under State law. Under the laws of most States, such education includes the curriculums in grades 1 through 12; under many it includes also the introductory programs in kindergarten. Such education in some States may also include nursery school programs in elementary education and junior college curriculums in secondary education. The term ''other educational establishment'' includes special schools for mentally or physically disabled or gifted children, regardless of any classification of such schools as elementary, secondary or higher. Factors relevant in determining whether post-secondary career programs are educational institutions include whether the school is licensed by a state agency responsible for the state's educational system or accredited by a nationally recognized accrediting organization for career schools. Also, for purposes of the exemption, no distinction is drawn between public and private schools, or between those operated for profit and those that are not for profit.

(c) The phrase ''performing administrative functions directly related to academic instruction or training'' means work related to the academic operations and functions in a school rather than to administration along the lines of general business operations. Such academic administrative functions include operations directly in the field of education. Jobs relating to areas outside the educational field are not within the definition of academic administration.

(1) Employees engaged in academic administrative functions include: the superintendent or other head of an elementary or secondary school system, and any assistants, responsible for administration of such matters as curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students, establishing and maintaining academic and grading standards, and other aspects of the teaching program; the principal and any vice-principals responsible for the operation of an elementary or secondary school; department heads in institutions of higher education responsible for the administration of the mathematics department, the English department, the foreign language department, etc.; academic counselors who perform work such as administering school testing programs, assisting students with academic problems and advising students concerning degree requirements; and other employees with similar responsibilities.

(2) Jobs relating to building management and maintenance, jobs relating to the health of the students, and academic staff such as social workers, psychologists, lunch room managers or dietitians do not perform academic administrative functions. Although such work is not considered academic administration, such employees may qualify for exemption under § 541.200or under other sections of this part, provided the requirements for such exemptions are met.

SUBPART D—PROFESSIONAL EMPLOYEES (§§ 541.300–541.304)

§ 541.300 General rule for professional employees.

(a) The term ''employee employed in a bona fide professional capacity'' in section 13(a)(1) of the Act shall mean any employee:

(1) Compensated on a salary or fee basis pursuant to § 541.600 at a rate of not less than $684 per week [(or $455 per week if employed in the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, or the U.S. Virgin Islands by employers other than the Federal government, or $380 per week if employed in American Samoa by employers other than the Federal government)], exclusive of board, lodging or other facilities; and

(2) Whose primary duty is the performance of work:

(i) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction; or

(ii) Requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.

(b) The term ''salary basis'' is defined at § 541.602; ''fee basis'' is defined at § 541.605; ''board, lodging or other facilities'' is defined at § 541.606; and ''primary duty'' is defined at § 541.700.

§ 541.301 Learned professionals.

(a) To qualify for the learned professional exemption, an employee's primary duty must be the performance of work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction. This primary duty test includes three elements:

(1) The employee must perform work requiring advanced knowledge;

(2) The advanced knowledge must be in a field of science or learning; and

(3) The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

(b) The phrase ''work requiring advanced knowledge'' means work which is predominantly intellectual in character, and which includes work requiring the consistent exercise of discretion and judgment, as distinguished from performance of routine mental, manual, mechanical or physical work. An employee who performs work requiring advanced knowledge generally uses the advanced knowledge to analyze, interpret or make deductions from varying facts or circumstances. Advanced knowledge cannot be attained at the high school level.

(c) The phrase ''field of science or learning'' includes the traditional professions of law, medicine, theology, accounting, actuarial computation, engineering, architecture, teaching, various types of physical, chemical and biological sciences, pharmacy and other similar occupations that have a recognized professional status as distinguished from the mechanical arts or skilled trades where in some instances the knowledge is of a fairly advanced type, but is not in a field of science or learning.

(d) The phrase ''customarily acquired by a prolonged course of specialized intellectual instruction'' restricts the exemption to professions where specialized academic training is a standard prerequisite for entrance into the profession. The best prima facie evidence that an employee meets this requirement is possession of the appropriate academic degree. However, the word ''customarily'' means that the exemption is also available to employees in such professions who have substantially the same knowledge level and perform substantially the same work as the degreed employees, but who attained the advanced knowledge through a combination of work experience and intellectual instruction. Thus, for example, the learned professional exemption is available to the occasional lawyer who has not gone to law school, or the occasional chemist who is not the possessor of a degree in chemistry. However, the learned professional exemption is not available for occupations that customarily may be performed with only the general knowledge acquired by an academic degree in any field, with knowledge acquired through an apprenticeship, or with training in the performance of routine mental, manual, mechanical or physical processes. The learned professional exemption also does not apply to occupations in which most employees have acquired their skill by experience rather than by advanced specialized intellectual instruction.

(e)(1) Registered or certified medical technologists. Registered or certified medical technologists who have successfully completed three academic years of pre-professional study in an accredited college or university plus a fourth year of professional course work in a school of medical technology approved by the Council of Medical Education of the American Medical Association generally meet the duties requirements for the learned professional exemption.

(2) Nurses. Registered nurses who are registered by the appropriate State examining board generally meet the duties requirements for the learned professional exemption. Licensed practical nurses and other similar health care employees, however, generally do not qualify as exempt learned professionals because possession of a specialized advanced academic degree is not a standard prerequisite for entry into such occupations.

(3) Dental hygienists. Dental hygienists who have successfully completed four academic years of pre-professional and professional study in an accredited college or university approved by the Commission on Accreditation of Dental and Dental Auxiliary Educational Programs of the American Dental Association generally meet the duties requirements for the learned professional exemption.

(4) Physician assistants. Physician assistants who have successfully completed four academic years of pre-professional and professional study, including graduation from a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant, and who are certified by the National Commission on Certification of Physician Assistants generally meet the duties requirements for the learned professional exemption.

(5) Accountants. Certified public accountants generally meet the duties requirements for the learned professional exemption. In addition, many other accountants who are not certified public accountants but perform similar job duties may qualify as exempt learned professionals. However, accounting clerks, bookkeepers and other employees who normally perform a great deal of routine work generally will not qualify as exempt professionals.

(6) Chefs. Chefs, such as executive chefs and sous chefs, who have attained a four-year specialized academic degree in a culinary arts program, generally meet the duties requirements for the learned professional exemption. The learned professional exemption is not available to cooks who perform predominantly routine mental, manual, mechanical or physical work.

(7) Paralegals. Paralegals and legal assistants generally do not qualify as exempt learned professionals because an advanced specialized academic degree is not a standard prerequisite for entry into the field. Although many paralegals possess general four-year advanced degrees, most specialized paralegal programs are two-year associate degree programs from a community college or equivalent institution. However, the learned professional exemption is available for paralegals who possess advanced specialized degrees in other professional fields and apply advanced knowledge in that field in the performance of their duties. For example, if a law firm hires an engineer as a paralegal to provide expert advice on product liability cases or to assist on patent matters, that engineer would qualify for exemption.

(8) Athletic trainers. Athletic trainers who have successfully completed four academic years of pre-professional and professional study in a specialized curriculum accredited by the Commission on Accreditation of Allied Health Education Programs and who are certified by the Board of Certification of the National Athletic Trainers Association Board of Certification generally meet the duties requirements for the learned professional exemption.

[(9) Funeral directors or embalmers. Licensed funeral directors and embalmers who are licensed by and working in a state that requires successful completion of four academic years of pre-professional and professional study, including graduation from a college of mortuary science accredited by the American Board of Funeral Service Education, generally meet the duties requirements for the learned professional exemption.]

(f) The areas in which the professional exemption may be available are expanding. As knowledge is developed, academic training is broadened and specialized degrees are offered in new and diverse fields, thus creating new specialists in particular fields of science or learning. When an advanced specialized degree has become a standard requirement for a particular occupation, that occupation may have acquired the characteristics of a learned profession. Accrediting and certifying organizations similar to those listed in paragraphs (e)(1), (e)(3), (e)(4) and (e)(8) of this section also may be created in the future. Such organizations may develop similar specialized curriculums and certification programs which, if a standard requirement for a particular occupation, may indicate that the occupation has acquired the characteristics of a learned profession.

§ 541.302 Creative professionals.

(a) To qualify for the creative professional exemption, an employee's primary duty must be the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor as opposed to routine mental, manual, mechanical or physical work. The exemption does not apply to work which can be produced by a person with general manual or intellectual ability and training.

(b) To qualify for exemption as a creative professional, the work performed must be ''in a recognized field of artistic or creative endeavor.'' This includes such fields as music, writing, acting and the graphic arts.

(c) The requirement of ''invention, imagination, originality or talent'' distinguishes the creative professions from work that primarily depends on intelligence, diligence and accuracy. The duties of employees vary widely, and exemption as a creative professional depends on the extent of the invention, imagination, originality or talent exercised by the employee. Determination of exempt creative professional status, therefore, must be made on a case-by-case basis. This requirement generally is met by actors, musicians, composers, conductors, and soloists; painters who at most are given the subject matter of their painting; cartoonists who are merely told the title or underlying concept of a cartoon and must rely on their own creative ability to express the concept; essayists, novelists, short-story writers and screen-play writers who choose their own subjects and hand in a finished piece of work to their employers (the majority of such persons are, of course, not employees but self-employed); and persons holding the more responsible writing positions in advertising agencies. This requirement generally is not met by a person who is employed as a copyist, as an ''animator'' of motion-picture cartoons, or as a retoucher of photographs, since such work is not properly described as creative in character.

(d) Journalists may satisfy the duties requirements for the creative professional exemption if their primary duty is work requiring invention, imagination, originality or talent, as opposed to work which depends primarily on intelligence, diligence and accuracy. Employees of newspapers, magazines, television and other media are not exempt creative professionals if they only collect, organize and record information that is routine or already public, or if they do not contribute a unique interpretation or analysis to a news product. Thus, for example, newspaper reporters who merely rewrite press releases or who write standard recounts of public information by gathering facts on routine community events are not exempt creative professionals. Reporters also do not qualify as exempt creative professionals if their work product is subject to substantial control by the employer. However, journalists may qualify as exempt creative professionals if their primary duty is performing on the air in radio, television or other electronic media; conducting investigative interviews; analyzing or interpreting public events; writing editorials, opinion columns or other commentary; or acting as a narrator or commentator.

§ 541.303 Teachers.

(a) The term ''employee employed in a bona fide professional capacity'' in section 13(a)(1) of the Act also means any employee with a primary duty of teaching, tutoring, instructing or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an educational establishment by which the employee is employed. The term ''educational establishment'' is defined in § 541.204(b).

(b) Exempt teachers include, but are not limited to: Regular academic teachers; teachers of kindergarten or nursery school pupils; teachers of gifted or disabled children; teachers of skilled and semi-skilled trades and occupations; teachers engaged in automobile driving instruction; aircraft flight instructors; home economics teachers; and vocal or instrumental music instructors. Those faculty members who are engaged as teachers but also spend a considerable amount of their time in extracurricular activities such as coaching athletic teams or acting as moderators or advisors in such areas as drama, speech, debate or journalism are engaged in teaching. Such activities are a recognized part of the schools' responsibility in contributing to the educational development of the student.

(c) The possession of an elementary or secondary teacher's certificate provides a clear means of identifying the individuals contemplated as being within the scope of the exemption for teaching professionals. Teachers who possess a teaching certificate qualify for the exemption regardless of the terminology (e.g., permanent, conditional, standard, provisional, temporary, emergency, or unlimited) used by the State to refer to different kinds of certificates. However, private schools and public schools are not uniform in requiring a certificate for employment as an elementary or secondary school teacher, and a teacher's certificate is not generally necessary for employment in institutions of higher education or other educational establishments. Therefore, a teacher who is not certified may be considered for exemption, provided that such individual is employed as a teacher by the employing school or school system.

(d) The requirements of § 541.300 and Subpart G (salary requirements) of this part do not apply to the teaching professionals described in this section.

§ 541.304 Practice of law or medicine.

(a) The term ''employee employed in a bona fide professional capacity'' in section 13(a)(1) of the Act also shall mean:

(1) Any employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and is actually engaged in the practice thereof; and

(2) Any employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of the profession.

(b) In the case of medicine, the exemption applies to physicians and other practitioners licensed and practicing in the field of medical science and healing or any of the medical specialties practiced by physicians or

practitioners. The term ''physicians'' includes medical doctors including general practitioners and specialists, osteopathic physicians (doctors of osteopathy), podiatrists, dentists (doctors of dental medicine), and optometrists (doctors of optometry or bachelors of science in optometry).

(c) Employees engaged in internship or resident programs, whether or not licensed to practice prior to commencement of the program, qualify as exempt professionals if they enter such internship or resident programs after the earning of the appropriate degree required for the general practice of their profession.

(d) The requirements of §541.300 and subpart G (salary requirements) of this part do not apply to the employees described in this section.

SUBPART E—COMPUTER EMPLOYEES (§§541.400–541.402)

§541.400 General rule for computer employees.

(a) Computer systems analysts, computer programmers, software engineers or other similarly skilled workers in the computer field are eligible for exemption as professionals under section 13(a)(1) of the Act and under section 13(a)(17) of the Act. Because job titles vary widely and change quickly in the computer industry, job titles are not determinative of the applicability of this exemption.

(b) The section 13(a)(1)exemption applies to any computer employee who is compensated on a salary or fee basis at a rate of not less than $684 per week [(or $455 per week if employed in the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, or the U.S. Virgin Islands by employers other than the Federal government, or $380 per week if employed in American Samoa by employers other than the Federal government)], exclusive of board, lodging, or other facilities.

The section 13(a)(17) exemption applies to any computer employee compensated on an hourly basis at a rate of not less than $27.63 an hour. In addition, under either section 13(a)(1) or section 13(a)(17) of the Act, the exemptions apply only to computer employees whose primary duty consists of:

(1) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;

(2) The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

(3) The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or

(4) A combination of the aforementioned duties, the performance of which requires the same level of skills.

(c) The term ''salary basis'' is defined at §541.602; ''fee basis'' is defined at §541.605; ''board, lodging or other facilities'' is defined at §541.606; and ''primary duty'' is defined at §541.700.

§541.401 Computer manufacture and repair.

The exemption for employees in computer occupations does not include employees engaged in the manufacture or repair of computer hardware and related equipment. Employees whose work is highly dependent upon, or facilitated by, the use of computers and computer software programs (e.g., engineers, drafters and others skilled in computer-aided design software), but who are not primarily engaged in computer systems analysis and programming or other similarly skilled computer-related occupations identified in §541.400(b), are also not exempt computer professionals.

§541.402 Executive and administrative computer employees.

Computer employees within the scope of this exemption, as well as those employees not within its scope, may also have executive and administrative duties which qualify the employees for exemption under subpart B or subpart C of this part. For example, systems analysts and computer programmers generally meet the duties requirements for the administrative exemption if their primary duty includes work such as planning, scheduling, and coordinating activities required to develop systems to solve complex business, scientific or engineering problems of the employer or the employer's customers. Similarly, a senior or lead computer programmer who manages the work of two or more other programmers in a customarily recognized department or subdivision of the employer, and whose recommendations as to the hiring, firing, advancement, promotion or other change of status of the other programmers are given particular weight, generally meets the duties requirements for the executive exemption.

[SUBPART F—OUTSIDE SALES EMPLOYEES (§§541.500–541.504)

§541.500 General rule for outside sales employees.

(a) The term ''employee employed in the capacity of outside salesman'' in section 13(a)(1) of the Act shall mean any employee:

(1) Whose primary duty is:

(i) making sales within the meaning of section 3(k) of the Act, or

(ii) obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer; and

(2) Who is customarily and regularly engaged away from the employer's place or places of business in performing such primary duty.

(b) The term ''primary duty'' is defined at §541.700. In determining the primary duty of an outside sales employee, work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including incidental deliveries and collections, shall be regarded as exempt outside sales work. Other work that furthers the employee's sales efforts also shall be regarded as exempt work including, for example, writing sales reports, updating or revising the employee's sales or display catalogue, planning itineraries and attending sales conferences.

(c) The requirements of subpart G (salary requirements) of this part do not apply to the outside sales employees described in this section.

§541.501 Making sales or obtaining orders.

(a) Section 541.500 requires that the employee be engaged in:

(1) Making sales within the meaning of section 3(k) of the Act, or

(2) Obtaining orders or contracts for services or for the use of facilities.

(b) Sales within the meaning of section 3(k) of the Act include the transfer of title to tangible property, and in certain cases, of tangible and valuable evidences of intangible property. Section 3(k) of the Act states that ''sale'' or ''sell'' includes any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition.

(c) Exempt outside sales work includes not only the sales of commodities, but also ''obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer.'' Obtaining orders for ''the use of facilities'' includes the selling of time on radio or television, the solicitation of advertising for newspapers and other periodicals, and the solicitation of freight for railroads and other transportation agencies.

(d) The word ''services'' extends the outside sales exemption to employees who sell or take orders for a service, which may be performed for the customer by someone other than the person taking the order.

§541.502 Away from employer's place of business.

An outside sales employee must be customarily and regularly engaged ''away from the employer's place or places of business.'' The outside sales employee is an employee who makes sales at the customer's place of business or, if selling door-to-door, at the customer's home. Outside sales does not include sales made by mail, telephone or the Internet unless such contact is used merely as an adjunct to personal calls. Thus, any fixed site, whether home or office, used by a salesperson as a headquarters or for telephonic solicitation of sales is considered one of the employer's places of business, even though the employer is not in any formal sense the owner or tenant of the property. However, an outside sales employee does not lose the exemption by displaying samples in hotel sample rooms during trips from city to city; these sample rooms should not be considered as the employer's places of business. Similarly, an outside sales employee does not lose the exemption by displaying the employer's products at a trade show. If selling actually occurs, rather than just sales promotion, trade shows of short duration (i.e., one or two weeks) should not be considered as the employer's place of business.

§541.503 Promotion work.

(a) Promotion work is one type of activity often performed by persons who make sales, which may or may not be exempt outside sales work, depending upon the circumstances under which it is performed. Promotional work that is actually performed incidental to and in conjunction with an employee's own outside sales or solicitations is exempt work. On the other hand, promotional work that is incidental to sales made, or to be made, by someone else is not exempt outside sales work. An employee who does not satisfy the requirements of this subpart may still qualify as an exempt employee under other subparts of this rule.

(b) A manufacturer's representative, for example, may perform various types of promotional activities such as putting up displays and posters, removing damaged or spoiled stock from the merchant's shelves or rearranging the merchandise. Such an employee can be considered an exempt outside sales employee if the employee's primary duty is making sales or contracts. Promotion activities directed toward consummation of the employee's own sales are exempt. Promotional activities designed to stimulate sales that will be made by someone else are not exempt outside sales work.

(c) Another example is a company representative who visits chain stores, arranges the merchandise on shelves, replenishes stock by replacing old with new merchandise, sets up displays and consults with the store manager when inventory runs low, but does not obtain a commitment for additional purchases. The arrangement of merchandise on the shelves or the replenishing of stock is not exempt work unless it is incidental to and in conjunction with the employee's own outside sales. Because the employee in this instance does not consummate the sale nor direct efforts toward the consummation of a sale, the work is not exempt outside sales work.

§541.504 Drivers who sell.

(a) Drivers who deliver products and also sell such products may qualify as exempt

outside sales employees only if the employee has a primary duty of making sales. In determining the primary duty of drivers who sell, work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including loading, driving or delivering products, shall be regarded as exempt outside sales work.

(b) Several factors should be considered in determining if a driver has a primary duty of making sales, including, but not limited to: a comparison of the driver's duties with those of other employees engaged as truck drivers and as salespersons; possession of a selling or solicitor's license when such license is required by law or ordinances; presence or absence of customary or contractual arrangements concerning amounts of products to be delivered; description of the employee's occupation in collective bargaining agreements; the employer's specifications as to qualifications for hiring; sales training; attendance at sales conferences; method of payment; and proportion of earnings directly attributable to sales.

(c) Drivers who may qualify as exempt outside sales employees include:

(1) A driver who provides the only sales contact between the employer and the customers visited, who calls on customers and takes orders for products, who delivers products from stock in the employee's vehicle or procures and delivers the product to the customer on a later trip, and who receives compensation commensurate with the volume of products sold.

(2) A driver who obtains or solicits orders for the employer's products from persons who have authority to commit the customer for purchases.

(3) A driver who calls on new prospects for customers along the employee's route and attempts to convince them of the desirability of accepting regular delivery of goods.

(4) A driver who calls on established customers along the route and persuades regular customers to accept delivery of increased amounts of goods or of new products, even though the initial sale or agreement for delivery was made by someone else.

(d) Drivers who generally would not qualify as exempt outside sales employees include:

(1) A route driver whose primary duty is to transport products sold by the employer through vending machines and to keep such machines stocked, in good operating condition, and in good locations.

(2) A driver who often calls on established customers day after day or week after week, delivering a quantity of the employer's products at each call when the sale was not significantly affected by solicitations of the customer by the delivering driver or the amount of the sale is determined by the volume of the customer's sales since the previous delivery.

(3) A driver primarily engaged in making deliveries to customers and performing activities intended to promote sales by customers (including placing point-of-sale and other advertising materials, price stamping commodities, arranging merchandise on shelves, in coolers or in cabinets, rotating stock according to date, and cleaning and otherwise servicing display cases), unless such work is in furtherance of the driver's own sales efforts.]

SUBPART G—SALARY REQUIREMENTS (§§ 541.600–541.607)

§ 541.600 Amount of salary required.

(a) To qualify as an exempt executive, administrative or professional employee under section 13(a)(1) of the Act, an employee must be compensated on a salary basis at a rate of not less than $684 per week [(or $455 per week if employed in the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, or the U.S. Virgin Islands by employers other than the Federal Government, or $380 per week if employed in American Samoa by employers other than the Federal Government)], exclusive of board, lodging or other facilities. Administrative and professional employees may also be paid on a fee basis, as defined in § 541.605.

(b) The required amount of compensation per week may be translated into equivalent amounts for periods longer than one week. For example, the $684-per-week requirement will be met if the employee is compensated biweekly on a salary basis of not less than $1,368, semimonthly on a salary basis of not less than $1,482, or monthly on a salary basis of not less than $2,964. However, the shortest period of payment that will meet this compensation requirement is one week.

(c) In the case of academic administrative employees, the compensation requirement also may be met by compensation on a salary basis at a rate at least equal to the entrance salary for teachers in the educational establishment by which the employee is employed, as provided in § 541.204(a)(1).

(d) In the case of computer employees, the compensation requirement also may be met by compensation on an hourly basis at a rate not less than $27.63 an hour, as provided in § 541.400(b).

(e) In the case of professional employees, the compensation requirements in this section shall not apply to employees engaged as teachers (see § 541.303); employees who hold a valid license or certificate permitting the practice of law or medicine or any of their branches and are actually engaged in the practice thereof (see § 541.304); or to employees who hold the requisite academic degree for the general practice of medicine and are engaged in an internship or resident program pursuant to the practice of the profession (see § 541.304). In the case of medical occupations, the exception from the salary or fee requirement does not apply to pharmacists, nurses, therapists, technologists, sanitarians, dietitians, social workers, psychologists, psychometrists, or other professions which service the medical profession.

SUBPART H—DEFINITIONS AND MISCELLANEOUS PROVISIONS (§§ 541.700–541.710)

§ 541.601 Highly compensated employees.

(a)(1) Beginning on January 1, 2020, an employee with total annual compensation of at least $107,432 is deemed exempt under section 13(a)(1) of the Act if the employee customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee as identified in subparts B, C or D of this part.

(2) Where the annual period covers periods both prior to and after January 1, 2020, the amount of total annual compensation due will be determined on a proportional basis.

(b)(1) ''Total annual compensation'' must include at least $684 per week paid on a salary or fee basis as set forth in §§ 541.602 and 541.605, except that § 541.602(a)(3) shall not apply to highly compensated employees. Total annual compensation may also include commissions, nondiscretionary bonuses and other nondiscretionary compensation earned during a 52-week period. Total annual compensation does not include board, lodging and other facilities as defined in § 541.606, and does not include payments for medical insurance, payments for life insurance, contributions to retirement plans and the cost of other fringe benefits.

(2) If an employee's total annual compensation does not total at least the amount specified in the applicable subsection of paragraph (a) by the last pay period of the 52-week period, the employer may, during the last pay period or within one month after the end of the 52-week period, make one final payment sufficient to achieve the required level. For example, for a 52-week period beginning January 1, 2020, an employee may earn $90,000 in base salary, and the employer may anticipate based upon past sales that the employee also will earn $17,432 in commissions. However, due to poor sales in the final quarter of the year, the employee actually only earns $12,000 in commissions. In this situation, the employer may within one month after the end of the year make a payment of at least $5,432 to the employee. Any such final payment made after the end of the 52-week period may count only toward the prior year's total annual compensation and not toward the total annual compensation in the year it was paid. If the employer fails to make such a payment, the employee does not qualify as a highly compensated employee, but may still qualify as exempt under subparts B, C, or D of this part.

(3) An employee who does not work a full year for the employer, either because the employee is newly hired after the beginning of the year or ends the employment before the end of the year, may qualify for exemption under this section if the employee receives a pro rata portion of the minimum amount established in paragraph (a) of this section, based upon the number of weeks that the employee will be or has been employed. An employer may make one final payment as under paragraph (b)(2) of this section within one month after the end of employment.

(4) The employer may utilize any 52-week period as the year, such as a calendar year, a fiscal year, or an anniversary of hire year. If the employer does not identify some other year period in advance, the calendar year will apply.

(c) A high level of compensation is a strong indicator of an employee's exempt status, thus eliminating the need for a detailed analysis of the employee's job duties. Thus, a highly compensated employee will qualify for exemption if the employee customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee identified in subparts B, C or D of this part. An employee may qualify as a highly compensated executive employee, for example, if the employee customarily and regularly directs the work of two or more other employees, even though the employee does not meet all of the other requirements for the executive exemption under § 541.100.

(d) This section applies only to employees whose primary duty includes performing office or non-manual work. Thus, for example, non-management production-line workers and non-management employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers, laborers and other employees who perform work involving repetitive operations with their hands, physical skill and energy are not exempt under this section no matter how highly paid they might be.

§ 541.602 Salary basis.

(a) *General rule.* An employee will be considered to be paid on a ''salary basis'' within the meaning of this part if the employee regularly receives each pay period on a weekly, or less frequent basis, a predetermined amount constituting all or part of the employee's compensation, which amount is not subject to reduction because of variations in the quality or quantity of the work performed.

(1) Subject to the exceptions provided in paragraph (b) of this section, an exempt employee must receive the full salary for any week in which the employee performs any work without regard to the number of days or hours worked. Exempt employees need not be paid for any workweek in which they perform no work.

(2) An employee is not paid on a salary basis if deductions from the employee's predetermined compensation are made for absences occasioned by the employer or by the operating requirements of the business. If the employee is ready, willing and able to work, deductions may not be made for time when work is not available.

(3) Up to ten percent of the salary amount required by §541.600(a) may be satisfied by the payment of nondiscretionary bonuses, incentives and commissions, that are paid annually or more frequently. The employer may utilize any 52-week period as the year, such as a calendar year, a fiscal year, or an anniversary of hire year. If the employer does not identify some other year period in advance, the calendar year will apply. This provision does not apply to highly compensated employees under §541.601.

(i) If by the last pay period of the 52-week period the sum of the employee's weekly salary plus nondiscretionary bonus, incentive, and commission payments received is less than 52 times the weekly salary amount required by §541.600(a), the employer may make one final payment sufficient to achieve the required level no later than the next pay period after the end of the year. Any such final payment made after the end of the 52–week period may count only toward the prior year's salary amount and not toward the salary amount in the year it was paid.

(ii) An employee who does not work a full 52-week period for the employer, either because the employee is newly hired after the beginning of this period or ends the employment before the end of this period, may qualify for exemption if the employee receives a *pro rata* portion of the minimum amount established in paragraph (a)(3) of this section, based upon the number of weeks that the employee will be or has been employed. An employer may make one final payment as under paragraph (a)(3)(i) of this section within one pay period after the end of employment.

(b) *Exceptions.* The prohibition against deductions from pay in the salary basis requirement is subject to the following exceptions:

(1) Deductions from pay may be made when an exempt employee is absent from work for one or more full days for personal reasons, other than sickness or disability. Thus, if an employee is absent for two full days to handle personal affairs, the employee's salaried status will not be affected if deductions are made from the salary for two full-day absences. However, if an exempt employee is absent for one and a half days for personal reasons, the employer can deduct only for the one full-day absence.

(2) Deductions from pay may be made for absences of one or more full days occasioned by sickness or disability (including work-related accidents) if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for loss of salary occasioned by such sickness or disability. The employer is not required to pay any portion of the employee's salary for full-day absences for which the employee receives compensation under the plan, policy or practice. Deductions for such full-day absences also may be made before the employee has qualified under the plan, policy or practice, and after the employee has exhausted the leave allowance thereunder. Thus, for example, if an employer maintains a short-term disability insurance plan providing salary replacement for 12 weeks starting on the fourth day of absence, the employer may make deductions from pay for the three days of absence before the employee qualifies for benefits under the plan; for the twelve weeks in which the employee receives salary replacement benefits under the plan; and for absences after the employee has exhausted the 12 weeks of salary replacement benefits. Similarly, an employer may make deductions from pay for absences of one or more full days if salary replacement benefits are provided under a State disability insurance law or under a State workers' compensation law.

(3) While an employer cannot make deductions from pay for absences of an exempt employee occasioned by jury duty, attendance as a witness or temporary military leave, the employer can offset any amounts received by an employee as jury fees, witness fees or military pay for a particular week against the salary due for that particular week without loss of the exemption.

(4) Deductions from pay of exempt employees may be made for penalties imposed in good faith for infractions of safety rules of major significance. Safety rules of major significance include those relating to the prevention of serious danger in the workplace or to other employees, such as rules prohibiting smoking in explosive plants, oil refineries and coal mines.

(5) Deductions from pay of exempt employees may be made for unpaid disciplinary suspensions of one or more full days imposed in good faith for infractions of workplace conduct rules. Such suspensions must be imposed pursuant to a written policy applicable to all employees. Thus, for example, an employer may suspend an exempt employee without pay for three days for violating a generally applicable written policy prohibiting sexual harassment. Similarly, an employer may suspend an exempt employee without pay for twelve days for violating a generally applicable written policy prohibiting workplace violence.

(6) An employer is not required to pay the full salary in the initial or terminal week of employment. Rather, an employer may pay a proportionate part of an employee's full salary for the time actually worked in the first and last week of employment. In such weeks, the payment of an hourly or daily equivalent of the employee's full salary for the time actually worked will meet the requirement. However, employees are not paid on a salary basis within the meaning of these regulations if they are employed occasionally for a few days, and the employer pays them a proportionate part of the weekly salary when so employed.

(7) An employer is not required to pay the full salary for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act. Rather, when an exempt employee takes unpaid leave under the Family and Medical Leave Act, an employer may pay a proportionate part of the full salary for time actually worked. For example, if an employee who normally works 40 hours per week uses four hours of unpaid leave under the Family and Medical Leave Act, the employer could deduct 10 percent of the employee's normal salary that week.

(c) When calculating the amount of a deduction from pay allowed under paragraph (b) of this section, the employer may use the hourly or daily equivalent of the employee's full weekly salary or any other amount proportional to the time actually missed by the employee. A deduction from pay as a penalty for violations of major safety rules under paragraph (b)(4) of this section may be made in any amount.

§541.603 Effect of improper deductions from salary.

(a) An employer who makes improper deductions from salary shall lose the exemption if the facts demonstrate that the employer did not intend to pay employees on a salary basis. An actual practice of making improper deductions demonstrates that the employer did not intend to pay employees on a salary basis. The factors to consider when determining whether an employer has an actual practice of making improper deductions include, but are not limited to: the number of improper deductions, particularly as compared to the number of employee infractions warranting discipline; the time period during which the employer made improper deductions; the number and geographic location of employees whose salary was improperly reduced; the number and geographic location of managers responsible for taking the improper deductions; and whether the employer has a clearly communicated policy permitting or prohibiting improper deductions.

(b) If the facts demonstrate that the employer has an actual practice of making improper deductions, the exemption is lost during the time period in which the improper deductions were made for employees in the same job classification working for the same managers responsible for the actual improper deductions. Employees in different job classifications or who work for different managers do not lose their status as exempt employees. Thus, for example, if a manager at a company facility routinely docks the pay of engineers at that facility for partial-day personal absences, then all engineers at that facility whose pay could have been improperly docked by the manager would lose the exemption; engineers at other facilities or working for other managers, however, would remain exempt.

(c) Improper deductions that are either isolated or inadvertent will not result in loss of the exemption for any employees subject to such improper deductions, if the employer reimburses the employees for such improper deductions.

(d) If an employer has a clearly communicated policy that prohibits the improper pay deductions specified in §541.602(a) and includes a complaint mechanism, reimburses employees for any improper deductions and makes a good faith commitment to comply in the future, such employer will not lose the exemption for any employees unless the employer willfully violates the policy by continuing to make improper deductions after receiving employee complaints. If an employer fails to reimburse employees for any improper deductions or continues to make improper deductions after receiving employee complaints, the exemption is lost during the time period in which the improper deductions were made for employees in the same job classification working for the same managers responsible for the actual improper deductions. The best evidence of a clearly communicated policy is a written policy that was distributed to employees prior to the improper pay deductions by, for example, providing a copy of the policy to employees at the time of hire, publishing the policy in an employee handbook or publishing the policy on the employer's Intranet.

(e) This section shall not be construed in an unduly technical manner so as to defeat the exemption.

§541.604 Minimum guarantee plus extras.

(a) An employer may provide an exempt employee with additional compensation without losing the exemption or violating the salary basis requirement, if the employment arrangement also includes a guarantee of at least the minimum weekly-required

amount paid on a salary basis. Thus, for example, an exempt employee guaranteed at least $684 each week paid on a salary basis may also receive additional compensation of a one percent commission on sales. An exempt employee also may receive a percentage of the sales or profits of the employer if the employment arrangement also includes a guarantee of at least $684 each week paid on a salary basis. Similarly, the exemption is not lost if an exempt employee who is guaranteed at least $684 each week paid on a salary basis also receives additional compensation based on hours worked for work beyond the normal workweek. Such additional compensation may be paid on any basis (e.g., flat sum, bonus payment, straight-time hourly amount, time and one-half or any other basis), and may include paid time off.

(b) An exempt employee's earnings may be computed on an hourly, a daily or a shift basis, without losing the exemption or violating the salary basis requirement, if the employment arrangement also includes a guarantee of at least the minimum weekly required amount paid on a salary basis regardless of the number of hours, days or shifts worked, and a reasonable relationship exists between the guaranteed amount and the amount actually earned. The reasonable relationship test will be met if the weekly guarantee is roughly equivalent to the employee's usual earnings at the assigned hourly, daily or shift rate for the employee's normal scheduled workweek. Thus, for example, an exempt employee guaranteed compensation of at least $725 for any week in which the employee performs any work, and who normally works four or five shifts each week, may be paid $210 per shift without violating the $684-per-week salary basis requirement. The reasonable relationship requirement applies only if the employee's pay is computed on an hourly, daily or shift basis. It does not apply, for example, to an exempt store manager paid a guaranteed salary per week that exceeds the current salary level who also receives a commission of one-half percent of all sales in the store or five percent of the store's profits, which in some weeks may total as much as, or even more than, the guaranteed salary.

§ 541.605 Fee basis.

(a) Administrative and professional employees may be paid on a fee basis, rather than on a salary basis. An employee will be considered to be paid on a ''fee basis'' within the meaning of these regulations if the employee is paid an agreed sum for a single job regardless of the time required for its completion. These payments resemble piecework payments with the important distinction that generally a ''fee'' is paid for the kind of job that is unique rather than for a series of jobs repeated an indefinite number of times and for which payment on an identical basis is made over and over again. Payments based on the number of hours or days worked and not on the accomplishment of a given single task are not considered payments on a fee basis.

(b) To determine whether the fee payment meets the minimum amount of salary required for exemption under these regulations, the amount paid to the employee will be tested by determining the time worked on the job and whether the fee payment is at a rate that would amount to at least the minimum salary per week, as required by §§ 541.600(a) and 541.602(a), if the employee worked 40 hours. Thus, an artist paid $350 for a picture that took 20 hours to complete meets the $684 minimum salary requirement for exemption since earnings at this rate would yield the artist $700 if 40 hours were worked.

§ 541.606 Board, lodging or other facilities.

(a) To qualify for exemption under section 13(a)(1) of the Act, an employee must earn the minimum salary amount set forth in § 541.600, ''exclusive of board, lodging or other facilities.'' The phrase ''exclusive of board, lodging or other facilities'' means ''free and clear'' or independent of any claimed credit for non-cash items of value that an employer may provide to an employee. Thus, the costs incurred by an employer to provide an employee with board, lodging or other facilities may not count towards the minimum salary amount required for exemption under this part 541. Such separate transactions are not prohibited between employers and their exempt employees, but the costs to employers associated with such transactions may not be considered when determining if an employee has received the full required minimum salary payment.

(b) Regulations defining what constitutes ''board, lodging, or other facilities'' are contained in 29 CFR part 531 <<**which are incorporated herein**>>. **[**As described in 29 CFR 531.32, the term ''other facilities'' refers to items similar to board and lodging, such as meals furnished at company restaurants or cafeterias or by hospitals, hotels, or restaurants to their employees; meals, dormitory rooms, and tuition furnished by a college to its student employees; merchandise furnished at company stores or commissaries, including articles of food, clothing, and household effects; housing furnished for dwelling purposes; and transportation furnished to employees for ordinary commuting between their homes and work.**]**

[§ 541.607] [Reserved by 85 FR 34970 Effective: June 8, 2020]

§ 541.700 Primary duty.

(a) To qualify for exemption under this part, an employee's ''primary duty'' must be the performance of exempt work. The term ''primary duty'' means the principal, main, major or most important duty that the employee performs. Determination of an employee's primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee's job as a whole. Factors to consider when determining the primary duty of an employee include, but are not limited to, the relative importance of the exempt duties as compared with other types of duties; the amount of time spent performing exempt work; the employee's relative freedom from direct supervision; and the relationship between the employee's salary and the wages paid to other employees for the kind of nonexempt work performed by the employee.

(b) The amount of time spent performing exempt work can be a useful guide in determining whether exempt work is the primary duty of an employee. Thus, employees who spend more than 50 percent of their time performing exempt work will generally satisfy the primary duty requirement. Time alone, however, is not the sole test, and nothing in this section requires that exempt employees spend more than 50 percent of their time performing exempt work. Employees who do not spend more than 50 percent of their time performing exempt duties may nonetheless meet the primary duty requirement if the other factors support such a conclusion.

(c) Thus, for example, assistant managers in a retail establishment who perform exempt executive work such as supervising and directing the work of other employees, ordering merchandise, managing the budget and authorizing payment of bills may have management as their primary duty even if the assistant managers spend more than 50 percent of the time performing nonexempt work such as running the cash register. However, if such assistant managers are closely supervised and earn little more than the nonexempt employees, the assistant managers generally would not satisfy the primary duty requirement.

§ 541.701 Customarily and regularly.

The phrase ''customarily and regularly'' means a frequency that must be greater than occasional but which, of course, may be less than constant. Tasks or work performed ''customarily and regularly'' includes work normally and recurrently performed every workweek; it does not include isolated or one-time tasks.

§ 541.702 Exempt and nonexempt work.

The term ''exempt work'' means all work described in §§ 541.100, 541.101, 541.200, 541.300, 541.301, 541.302, 541.303, 541.304, <<**and**>> 541.400 **[**and 541.500**]**, and the activities directly and closely related to such work. All other work is considered ''nonexempt.''

§ 541.703 Directly and closely related.

(a) Work that is ''directly and closely related'' to the performance of exempt work is also considered exempt work. The phrase ''directly and closely related'' means tasks that are related to exempt duties and that contribute to or facilitate performance of exempt work. Thus, ''directly and closely related'' work may include physical tasks and menial tasks that arise out of exempt duties, and the routine work without which the exempt employee's exempt work cannot be performed properly. Work ''directly and closely related'' to the performance of exempt duties may also include recordkeeping; monitoring and adjusting machinery; taking notes; using the computer to create documents or presentations; opening the mail for the purpose of reading it and making decisions; and using a photocopier or fax machine. Work is not ''directly and closely related'' if the work is remotely related or completely unrelated to exempt duties.

(b) The following examples further illustrate the type of work that is and is not normally considered as directly and closely related to exempt work:

(1) Keeping time, production or sales records for subordinates is work directly and closely related to an exempt executive's function of managing a department and supervising employees.

(2) The distribution of materials, merchandise or supplies to maintain control of the flow of and expenditures for such items is directly and closely related to the performance of exempt duties.

(3) A supervisor who spot checks and examines the work of subordinates to determine whether they are performing their duties properly, and whether the product is satisfactory, is performing work which is directly and closely related to managerial and supervisory functions, so long as the checking is distinguishable from the work ordinarily performed by a nonexempt inspector.

(4) A supervisor who sets up a machine may be engaged in exempt work, depending upon the nature of the industry and the operation. In some cases the setup work, or adjustment of the machine for a particular job, is typically performed by the same employees who operate the machine. Such setup work is part of the production operation and is not exempt. In other cases, the setting up of the work is a highly skilled operation which the ordinary production worker or machine tender typically does not perform. In large plants, non-supervisors may perform such work. However, particularly in small plants, such work may be a regular duty of the executive and is directly and closely related to the executive's responsibility for the work performance of subordinates and for the adequacy of the final product. Under such circumstances, it is exempt work.

(5) A department manager in a retail or service establishment who walks about the sales floor observing the work of sales personnel under the employee's supervision to determine the effectiveness of their sales techniques, checks on the quality of customer service being given, or observes customer preferences is performing work which is directly and closely related to managerial and supervisory functions.

(6) A business consultant may take extensive notes recording the flow of work and materials through the office or plant of the client; after returning to the office of the employer, the consultant may personally use the computer to type a report and create a proposed table of organization. Standing alone, or separated from the primary duty, such note-taking and typing would be routine in nature. However, because this work is necessary for analyzing the data and making recommendations, the work is directly and closely related to exempt work. While it is possible to assign note-taking and typing to nonexempt employees, and in fact it is frequently the practice to do so, delegating such routine tasks is not required as a condition of exemption.

(7) A credit manager who makes and administers the credit policy of the employer, establishes credit limits for customers, authorizes the shipment of orders on credit, and makes decisions on whether to exceed credit limits would be performing work exempt under §541.200. Work that is directly and closely related to these exempt duties may include checking the status of accounts to determine whether the credit limit would be exceeded by the shipment of a new order, removing credit reports from the files for analysis, and writing letters giving credit data and experience to other employers or credit agencies.

(8) A traffic manager in charge of planning a company's transportation, including the most economical and quickest routes for shipping merchandise to and from the plant, contracting for common-carrier and other transportation facilities, negotiating with carriers for adjustments for damages to merchandise, and making the necessary rearrangements resulting from delays, damages or irregularities in transit, is performing exempt work. If the employee also spends part of the day taking telephone orders for local deliveries, such order-taking is a routine function and is not directly and closely related to the exempt work.

(9) An example of work directly and closely related to exempt professional duties is a chemist performing menial tasks such as cleaning a test tube in the middle of an original experiment, even though such menial tasks can be assigned to laboratory assistants.

(10) A teacher performs work directly and closely related to exempt duties when, while taking students on a field trip, the teacher drives a school van or monitors the students' behavior in a restaurant.

§541.704 Use of manuals.

The use of manuals, guidelines or other established procedures containing or relating to highly technical, scientific, legal, financial or other similarly complex matters that can be understood or interpreted only by those with advanced or specialized knowledge or skills does not preclude exemption under section 13(a)(1) of the Act or the regulations in this part. Such manuals and procedures provide guidance in addressing difficult or novel circumstances and thus use of such reference material would not affect an employee's exempt status. The section 13(a)(1) exemptions are not available, however, for employees who simply apply well-established techniques or procedures described in manuals or other sources within closely prescribed limits to determine the correct response to an inquiry or set of circumstances.

§541.705 Trainees.

The executive, administrative, professional, [outside sales] and computer employee exemptions do not apply to employees training for employment in an executive, administrative, professional, [outside sales] or computer employee capacity who are not actually performing the duties of an executive, administrative, professional, [outside sales] or computer employee.

§541.706 Emergencies.

(a) An exempt employee will not lose the exemption by performing work of a normally nonexempt nature because of the existence of an emergency. Thus, when emergencies arise that threaten the safety of employees, a cessation of operations or serious damage to the employer's property, any work performed in an effort to prevent such results is considered exempt work.

(b) An ''emergency'' does not include occurrences that are not beyond control or for which the employer can reasonably provide in the normal course of business. Emergencies generally occur only rarely, and are events that the employer cannot reasonably anticipate.

(c) The following examples illustrate the distinction between emergency work considered exempt work and routine work that is not exempt work:

(1) A mine superintendent who pitches in after an explosion and digs out workers who are trapped in the mine is still a bona fide executive.

(2) Assisting nonexempt employees with their work during periods of heavy workload or to handle rush orders is not exempt work.

(3) Replacing a nonexempt employee during the first day or partial day of an illness may be considered exempt emergency work depending on factors such as the size of the establishment and of the executive's department, the nature of the industry, the consequences that would flow from the failure to replace the ailing employee immediately, and the feasibility of filling the employee's place promptly.

(4) Regular repair and cleaning of equipment is not emergency work, even when necessary to prevent fire or explosion; however, repairing equipment may be emergency work if the breakdown of or damage to the equipment was caused by accident or carelessness that the employer could not reasonably anticipate.

§541.707 Occasional tasks.

Occasional, infrequently recurring tasks that cannot practicably be performed by nonexempt employees, but are the means for an exempt employee to properly carry out exempt functions and responsibilities, are considered exempt work. The following factors should be considered in determining whether such work is exempt work: Whether the same work is performed by any of the exempt employee's subordinates; practicability of delegating the work to a nonexempt employee; whether the exempt employee performs the task frequently or occasionally; and existence of an industry practice for the exempt employee to perform the task.

§541.708 Combination exemptions.

Employees who perform a combination of exempt duties as set forth in the regulations in this part for executive, administrative, professional, [outside sales] and computer employees may qualify for exemption. Thus, for example, an employee whose primary duty involves a combination of exempt administrative and exempt executive work may qualify for exemption. In other words, work that is exempt under one section of this part will not defeat the exemption under any other section.

[§541.709 Motion picture producing industry.

The requirement that the employee be paid ''on a salary basis'' does not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least $1,043 per week (exclusive of board, lodging, or other facilities). Thus, an employee in this industry who is otherwise exempt under subparts B, C, or D of this part, and who is employed at a base rate of at least the applicable current minimum amount a week is exempt if paid a proportionate amount (based on a week of not more than 6 days) for any week in which the employee does not work a full workweek for any reason. Moreover, an otherwise exempt employee in this industry qualifies for exemption if the employee is employed at a daily rate under the following circumstances:

(a) The employee is in a job category for which a weekly base rate is not provided and the daily base rate would yield at least the minimum weekly amount if 6 days were worked; or

(b) The employee is in a job category having the minimum weekly base rate and the daily base rate is at least one-sixth of such weekly base rate.]

§541.710 Employees of public agencies.

(a) An employee of a public agency who otherwise meets the salary basis requirements of §541.602 shall not be disqualified from exemption under §§541.100, 541.200, 541.300 or 541.400 on the basis that such employee is paid according to a pay system established by statute, ordinance or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because:

(1) Permission for its use has not been sought or has been sought and denied;

(2) Accrued leave has been exhausted; or

(3) The employee chooses to use leave without pay.

(b) Deductions from the pay of an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid on a salary basis except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

MEASURE READ THE FIRST TIME—S. 4088

Ms. HASSAN. Mr. President, I understand that there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The senior assistant legislative clerk read as follows:

A bill (S. 4088) to prohibit the Secretary of Health and Human Services from lessening the stringency of, and to prohibit the Secretary of Homeland Security from ceasing or lessening implementation of, the COVID–19 border health provisions through the end of the COVID–19 pandemic, and for other purposes.

Ms. HASSAN. I now ask for a second reading, and in order to place the bill

on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will receive its second reading on the next legislative day.

VETERANS RAPID RETRAINING ASSISTANCE PROGRAM RESTORATION AND RECOVERY ACT OF 2022

Ms. HASSAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 4089, which was introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (S. 4089) to restore entitlement to educational assistance under Veterans Rapid Retraining Program in cases of a closure of an educational institution or a disapproval of a program of education, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Ms. HASSAN. I further ask unanimous consent that the bill be considered read three times.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was ordered to be engrossed for a third reading and was read the third time.

Ms. HASSAN. I know of no further debate on the bill.

The PRESIDING OFFICER. If there is no further debate and the bill having been read the third time, the question is, Shall the bill pass?

The bill (S. 4089) was passed, as follows:

S. 4089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans Rapid Retraining Assistance Program Restoration and Recovery Act of 2022''.

SEC. 2. RESTORATION OF ENTITLEMENT UNDER VETERANS RAPID RETRAINING ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 8006 of the American Rescue Plan Act of 2021 (Public Law 117–2), as amended by the Training in High-demand Roles to Improve Veteran Employment Act (Public Law 117–16), is further amended—

(1) by redesignating subsection (n) as subsection (o); and

(2) by inserting after subsection (m), the following new subsection (n):

''(n) EFFECTS OF CLOSURE OF AN EDUCATIONAL INSTITUTION OR DISAPPROVAL OF A PROGRAM OF EDUCATION.—

''(1) IN GENERAL.—Any payment of retraining assistance under subsection (d)(1) shall not be charged against any entitlement to retraining assistance described in subsection (a) if the Secretary determines that an individual was unable to complete a course or program of education as a result of —

''(A) the closure of an educational institution; or

''(B) the disapproval of a program of education by the State approving agency or the Secretary when acting in the role of the State approving agency.

''(2) PERIOD NOT CHARGED.—The period for which, by reason of this subsection, retraining assistance is not charged shall be equal to the full amount of retraining assistance provided for enrollment in the program of education.

''(3) HALT OF PAYMENTS TO CERTAIN EDUCATIONAL INSTITUTIONS.—In the event of a closure or disapproval, as described in paragraph (1), the educational institution shall not receive any further payments under subsection (d).

''(4) RECOVERY OF FUNDS.—In the event of a closure or disapproval, as described in paragraph (1), any payment already made under subsection (d) to the educational institution shall be considered an overpayment and constitute a liability of such institution to the United States.''.

(b) CONFORMING AMENDMENT.—In subsection (b)(3) of such section, strike the period and insert '', except for an individual described in subsection (n).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the American Rescue Plan Act of 2021 (Public Law 117–2).

Ms. HASSAN. I ask unanimous consent that the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING THE LIFE, ACHIEVEMENTS, AND LEGACY OF THE HONORABLE MADELEINE K. ALBRIGHT

Ms. HASSAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration and the Senate now proceed to S. Res. 585.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 585) honoring the life, achievements, and legacy of the Honorable Madeleine K. Albright.

There being no objection, the committee was discharged, and the Senate proceeded to consider the resolution.

Ms. HASSAN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and that the motions to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 585) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in the RECORD of April 7, 2022, under ''Submitted Resolutions.'')

NATIONAL OSTEOPATHIC MEDICINE WEEK

Ms. HASSAN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 595, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 595) designating the week of April 18 through April 24, 2022, as ''National Osteopathic Medicine Week.''

There being no objection, the Senate proceeded to consider the resolution.

Ms. HASSAN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and that the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 595) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under ''Submitted Resolutions.'')

AUTHORIZING THE USE OF THE CAPITOL GROUNDS FOR THE NATIONAL PEACE OFFICERS MEMORIAL SERVICE AND THE NATIONAL HONOR GUARD AND PIPE BAND EXHIBITION

Ms. HASSAN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 74, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The senior assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 74) authorizing the use of the Capitol Grounds for the National Peace Officers Memorial Service and the National Honor Guard and Pipe Band Exhibition.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Ms. HASSAN. I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 74) was agreed to.

ORDERS FOR WEDNESDAY, APRIL 27, 2022

Ms. HASSAN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m. on Wednesday, April 27; and that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and morning business be closed; that upon the conclusion of morning business, the Senate proceed to executive session to resume consideration of the Garnett nomination; further, that the cloture motions filed during yesterday's session ripen at 3:30 p.m.; finally, that if any nominations

are confirmed during Wednesday's session, the motions to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 2 P.M. TOMORROW

Ms. HASSAN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 6:38 p.m., adjourned until Wednesday, April 27, 2022, at 2 p.m.

NOMINATIONS

Executive nomination received by the Senate:

DEPARTMENT OF STATE

BRIDGET A. BRINK, OF MICHIGAN, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER–COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO UKRAINE.

CONFIRMATION

Executive nomination confirmed by the Senate April 26, 2022:

FEDERAL RESERVE SYSTEM

LAEL BRAINARD, OF THE DISTRICT OF COLUMBIA, TO BE VICE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOUR YEARS.